

87-1770 ①

Supreme Court, U.S.  
**FILED**

APR 4 1988

JOSEPH F. SPANOL, JR.  
CLERK

NO. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

October Term, 1987

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ALEXANDER DAMASCUS D.D.S.,  
Petitioner,

-versus-

PATTY BORGIA (U.S. AGENT) THE UNITED STATES  
OF AMERICA, THE DIRECTOR OF THE BOARD OF  
DENTAL EXAMINERS OF CALIFORNIA, THE STATE  
OF CALIFORNIA, BLUE CROSS, CALIFORNIA  
DENTAL ASSOCIATION, CALIFORNIA DENTAL  
SERVICE, PRIVATE MEDICAL CARE INC, SANTA  
CLARA COUNTY DENTAL SOCIETY, UNKNOWN NAMED  
U.S. AGENTS, Respondants.

-----  
PETITION

FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE  
NINTH CIRCUIT  
9th Cir NO. 86-2114&86-2231

-----  
ALEXANDER DAMASCUS D.D.S.  
259 MERIDIAN #10  
SAN JOSE, CALIF. 95126  
(408) 241-7123

PETITIONER IN PRO PER

610W



QUESTIONS PRESENTED

1. SHOULD JUDGE AGULAR, A KNOWN COCAINE ABUSER, be allowed to issue FEDERAL COURT ORDERS FOR TELEPHONE SURVEILLANCE for CIVIL INVESTIGATIONS, ABUSED to LIMIT BUSINESS?
2. CAN JUDGE INGRAM UNFILE A COMPLAINT BEFORE JUDGE AGULAR AFTER PROCEDURAL ORDERS WERE ISSUED BY AGULAR WITHOUT AGULAR EVEN SIGNING A STATEMENT OF RELATED CASES?
3. CAN AN AMERICAN CITIZEN SECRETLY HAVE HIS CONSTITUTIONAL RIGHTS SUSPENDED FOR OVER FIVE YEARS SO THE COURT CAN CONDUCT CIVIL INVESTIGATIONS CONCERNING DENTISTRY?
4. CAN JUDGE INGRAM CONDUCT SECRETIVE RULE 11 INVESTIGATIONS TO DISMISS PURSUANT 12(B)6?
5. CAN JUDGE AGULAR ISSUE ORDER TO COPY DOCUMENTS AND INSPECT DAMASCUS SAFE DEPOSIT BOX WITHOUT WARRENT TO OWNER OF PROPERTY.
6. CAN A CLAIM FOR WARRENTLESS SEARCH AND SEIZURE, FRAUD, ABUSING CT-ORDER TELEPHONE SURVEILLANCE, BE DISMISSED PUR. 12(b)6 WITHOUT ANY HEARING BASED ON INGRAMS RULE 11 INVESTIGATIONS CONDUCTED BY DEFENDANTS?



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- Alexander v. City of Menlo Park,  
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- U.S.C.A. Const. Amend. 5: 42 U.S.C.A. s  
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- Gibson v. U.S., 781 F.2d 1334. 14.
- Maddox v. City of L.A. 792 F.2d 1408. 18.
- KOTWICA v. CITY OF TUSON case 682 F.2d  
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- ANDERSON v. CENTRAL POINT SCHOOL  
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- 29..S.CONST.U.S. CONST. amend XIV. 1.
- Picking v. pennsylvania R.Co.  
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- Cal v. Krivda and Katz v. U.S. 389 U.S. 347 .  
21.



v.

THESE decisions give rise to a reasonable expectation of privacy, established by the U.S. Supreme Court

U.S. v. Jacobson 80 L.Ed.2d 85,103,104

S.Ct.1652,1661(1984) " (Id.,104 S.Ct. 1661)

Moreover, "it would be merely tautological to fall back on the notion that those expectations of privacy are legitimate ydepend primarily on cases deciding exclusionary-rule issues in criminal cases.""Legitimation of expectation of privacy by laws must have a source outside the Fourth Amendment, either by reference to concepts of real or personal property law or to understandings that are that are recognized and permitted by society." (Id.,104S.Ct.1661) 22.

Finnhaber v. Sassenbrenner, D.C.Wis. 1974,385 F.Supp.406 23.

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84-5855 Levin and Lipton v. Knight 27.

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Parratt v. Taylor, 451 U.S.527(1981) 25.

Rutledge v. Arizona Board of Regents, 25.

660 F.2d 1345 (9th Cir. 1981), 18.

United States v. City of Twin Falls

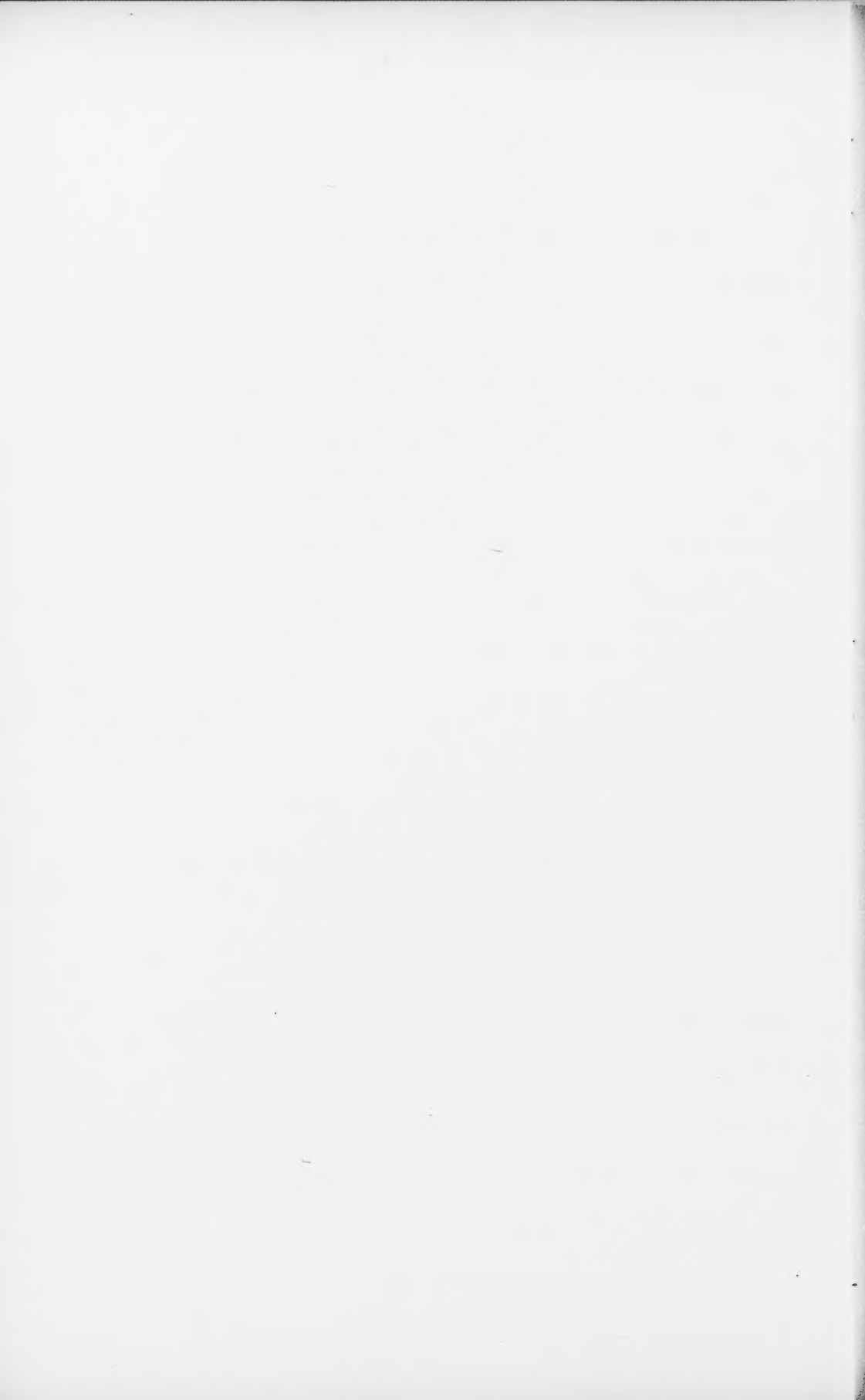
806 F2d 862 26



STATEMENT OF COMPLAINT

APRIL 8, 1985 PLAINTIFF ALEXANDER  
DAMASCUS FILED COMPLAINT C85-20209WAI  
IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA. DAMASCUS  
CITED Bivins, 28 USC 1337 AND THE FEDERAL  
TORT CLAIMS ACT IN COMPLAINT AND FILED  
COMPLAINT AS A FORM OF BREACHED CONTRACT  
AND DENIAL OF DUE PROCESS OF LAW.

BORGIA IS ALLEGED AN AGENT OF THE U.S.  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
PLANTED IN PLAINTIFF'S OFFICE AS A DENTAL  
ASSISTENT WHO IS ALLEGED TO HAVE STOLE  
RECORDS AND TURN AWAY CASH CUSTOMERS, WHILE  
causing the BREACH OF WRITTEN CONTRACT IN  
VIOLATION OF THE TERMS OF THE CONTRACT  
WHERE DAMASCUS WAS A PROVIDER DENTIST OF  
PRIVATE MEDICAL CARE, INC BEFORE BORGIAS  
INTERFERENCE FOR THE PURPOSE OF BOTH A  
KNOX-KEEN INVESTIGATION AND MEDICAL  
INVESTIGATION. BORGIA ALSO COMMITTED FRAUD  
BY SIGNING THE ATTACHED STATEMENT DENYING  
PARTICIPATION WITH ANY LAW ENFORCEMENT.





## OPINIONS

The unpublished opinions of the ninth circuit is THAT Judge Ingram" DID NOT ABUSE DISCRETION "BY DISMISSING COMPLAINTS PURSUANT TO 12(b)6,WITHOUT ANY HEARING OR LEAVE TO AMEND. AFTER IT CONDUCTED SECRET RULE 11 INVESTIGATION NOT ALLOWED AVAILABLE TO DAMASCUS ON APPEAL listed as

JUDGE SNEED of the NINTH CIRCUIT reviewed IN-CAMERA INVESTIGATIONS and conducted his own secret investigations of Damascus throught surveillance, affidavits and testimony, using court clerks as investigators, that were NEVER MADE AVAIABLE to Damascus, to review.

## JURISDICTION

The judgement of the court of appeals was entered on July 21,1987. An order denying a petition for rehearing was entered on January 8,1988.

Certiorari jurisdiction exists pursuant to 28 U.S.C. 1254(1).



The OPINION of the district

Page 2

court was that Damascus Complaints

CBS-20209WAI, c86-20229rpa and c86-20234wai

were "frivolous." as determined by court

investigations using Damascus atty secretly

hired by the court that Damascus paid

services for exclusively for research

purposes, yet affidavits and edited tapes of

Damascus and sting Operation Legal Reaserch

were not available to Damascus, DISMISSING

WITH PREJUDICE, PURSUANT TO 12(b)6.

ALTHOUGHT DAMASCUS FILED A PETITION FOR

WRIT OF MANDAMUS CONCERNING COMPETITENT

JURISDICTION FOR DISCLOSURE OF ALLEGEDLY

ABUSED FEDERALLY COURT ORDERED TELEPHONE

SURVEILLANCE PURSUANT TO 18 USC

2518 (8) (b) THE COURT AGAIN DENIED MANDAMUS IN

ERROR THROUGH IT'S OWN INVESTIGATIONS Utah

v. Livsev (1970, D.C. Utah) 312 F Supp 1397.

NO HEARING OR ANY DISCOVERY WERE EVER

GRANTED TO DAMASCUS IN ANY COMPLAINTS,

PETITIONS FOR REMOVAL OR MANDAMUS. (No case

was cited on feb 13, 1986 by Ingram).



## -STATUTES INVOLVED-

18 U.S.C. 2510 et seq. Damascus alleged "The U.S. District Court for the Northern - District of California issued court orders for telephone surveillance based on false affidavits" and " Federally Court Ordered Telephone surveillance was abused to divert incoming calls to patients sent for the purposes of investigation. After complaints were dismissed yet on appeal U.S. DEPART of Health Service patient Nancy Hasse filed civil malpractice suit against Damascus in state superior court.

28 U.S.C. 1441 et seq. PETITION TO REMOVE C87-0663DLJ TO REMOVE CIVIL CASES filed by U.S.DEPT.HHS patients Hasse and Munotsume were dismissed but not REMANDED without allowing any discovery to expose the federal nature of the case WHERE Damascus alleged FRAUD. Utah v. Livsey (1970,D.C.Utah)312 F Supp 1397.privacy Calv.Krivda and Katz v. U.S.389U.S.347



THE PURPOSE OF TELEPHONE SURVEILLANCE  
DEFINED BY IS 18 USC 2518 3/8 Supp, subsec.  
(1)(c) IS ALLEGEDLY BEING VIOLATED. U.S.vs.  
Webster, C.A.Tex.1984 734 F.2d 1048.  
rehearing denied 739F.2d633.

#### CONSTITUTIONAL AND STATUTORY\_

##### PROVISIONS INVOLVED

"The right of the people to be secure  
in their persons, houses, papers, and  
effects, against unreasonable searches and  
seizures, shall not be violated, and no  
warrants shall issue but upon probable  
cause, supported by Oath or Affirmation,  
and particularly describing the place to be  
searched, and the persons or things to be  
seized." U.S.CONST. amend. IV.

"(N)or shall any State deprive any  
person of life, liberty, or property,  
without due process of law..."U.S.CONST.  
U.S. CONST. amend XIV. 1.

Plaintiff alleges warrantless search  
and seizure and demands production of  
search warrants and due process of law.





## RELATED CASE

Petition for Writ of Certiorari before the U.S. Supreme Court, WAS DOCKETED ON NOVEMBER 17, 1987 ON RELATED CASE NO. 87-1086.

CONCERNING UNREMANDED PETITION TO REMOVE, it would be impossible to establish grounds for a petition for rehearing without compelling Judges Aguilar and Ingram to produce all documents surrounding IN-CAMERA hearings, federally court ordered Telephone Surveillance and federal court orders for the Warrentless seizure of property from Damascus safe deposit box of the Homestead-Kiely Wells Fargo Bank in Santa Clara. These allegations are all true and have never been denied. Competitent Jurisdiction and Reasonablness standard warrent discovery. DAMASCUS Sought MANDAMUS AS REMEDY TO COMPELL JUDGES WHO HAVE SUSPENDED CONSTITUTIONAL RIGHTS WITHOUT A TRIAL BY JURY A AND ISSUING ABUSED SURVEILLANCE ORDERS.



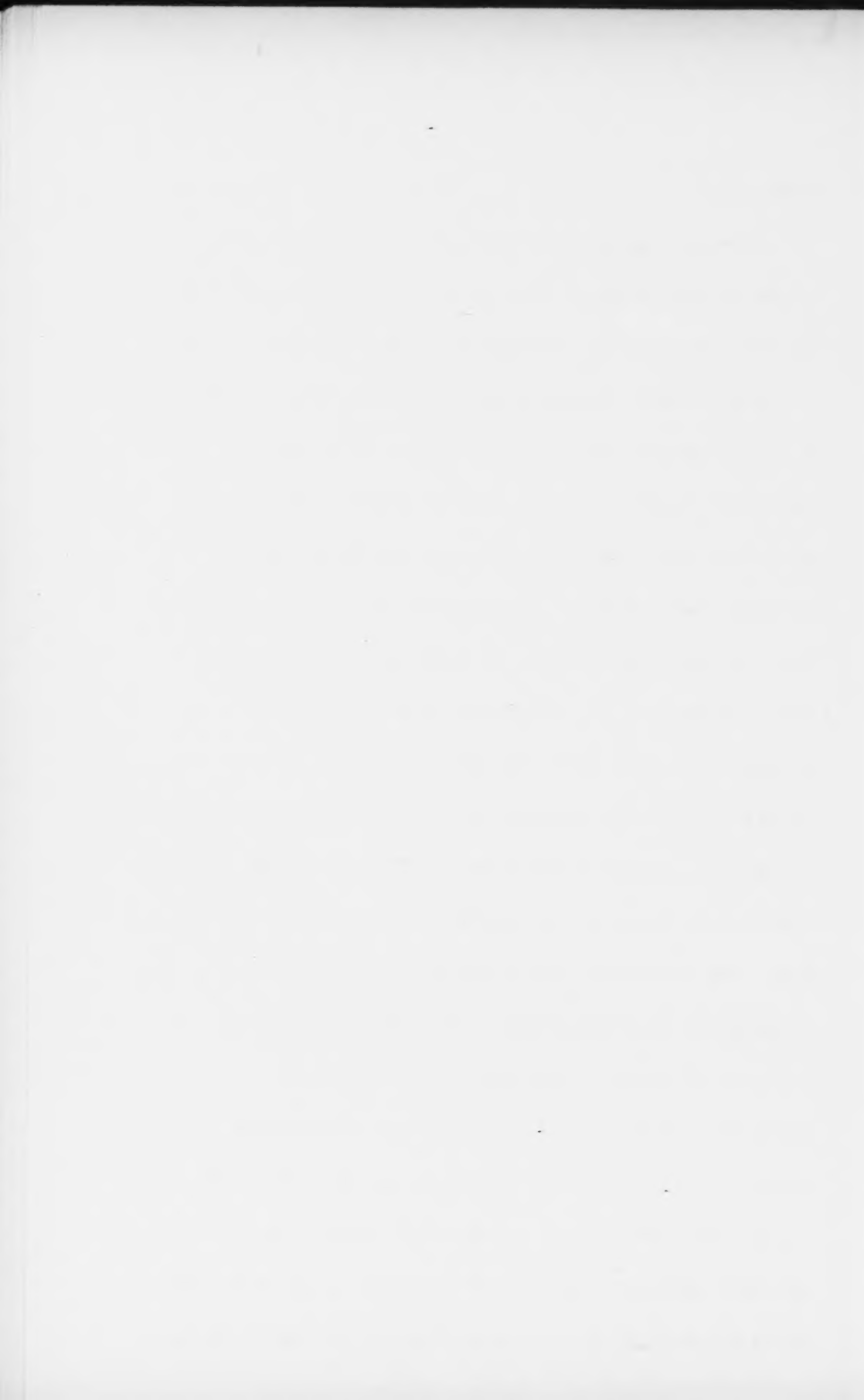
45 ALR 2d 937. mandamus was filed when  
Ingrm fraudulently DENIED DISCOVERY WHERE  
COURT SOLELY RETAINED "COMPETITENT  
JURISDICTION." PURSUANT TO 18 USC 2518 (8) b

DAMASCUS SEEKS PROHIBITION AS THE  
APPROPRIATE REMEDY TO PREVENT HASSE FROM  
PROCEEDING FURTHER AND ISSUING MANDATE  
WITHOUT ALLOWING DISCLOSURE OF THE FEDERAL  
NATURE OF THE CASE. TURNER v. ABA 92 ALR 2d  
306. Utah v. Livsey (1970, D.C. Utah) 312 F  
Supp 1397. IT IS UNFAIR TO DISMISS ACTIONS  
including Petitions for Removal, WITHOUT  
ANY DISCOVERY, BASED ON SECRATIVE RULE 11  
INVESTIATIONS. THE COURT OF APPEALS SHOULD  
NOT AFFIRM DISMISSAL WITH PREJUDICE AGAINST  
UNKNOWN DEFENDANTS. THE INVESTIGATIONS WERE  
SECRETLY CONDUCTED WITH THE APPROVAL OF 9th  
CIRCUIT JUDGE SNEED. COMPLAINT ALLEGED THAT  
THE U.S. DEPT. HHS ABUSING SURVEILLANCE FOR  
MEDI-CAL AND KNOX-KEEN PROVIDER CONSUMER  
INVESTIGATIONS 18 USC 2518 3/8 Supp, (1) (c)  
U.S. vs. Webster, C.A. Tex. 1984 734 F.2d



Nancy Hasse participated as an undercover agent for the U.S. Dept of HHS, TO TRY TO FRAME DAMASCUS FOR MEDICAL FRAUD.

HASSE WAS ENCOURAGED BY THE HHS TO FILE A FRAUDULENT MEDICAL MALPRACTICE CLAIM AGAINST DAMASCUS IN STATE SUPERIOR COURT DENYING HER PARTICIPATION IN FEDERAL INVESTIGATIONS OF DAMASCUS AS ATTY-CLIENT PRIVILEGE. HER ATTY R.SPENCER QUIN IS AN AQUAINENANCE OF FEDERAL DISTRICT COURT JUDGE AGULARS WHO ISSUED FEDERAL COURT ORDERS FOR TELEPHONE SURVEILLANCE WHICH WAS ALLEGELY ABUSED TO LIMIT DR.DAMASCUS'S INCOMING CALLS TO THOSE OF PATIENTS SENT FOR THE PURPOSE OF INVESTIGATION. DR. DAMASCUS DENTAL PRACTICE RELIES UPON INCOMING CALLS THROUGH YELLOW PAGE ADVERTIZING. ON APRIL 7,1983 DAMASCUS FIRED AGENT PATTY BORGIA FOR THE U.S.DEPT.HHS WHO STOLE RECORDS AND DIVERTED INCOMING CALLS AS SHE WORKED AS RECEPTIONIST. IN 1984.AD-MINISTRATIVE CLAIM WAS FILED BY CERT MAIL.



1. BORGIA WAS A U.S. AGENT PLANTED AS A DENTAL ASSISTANT IN DAMASCUS OFFICE AND SEIZED RECORDS, X-RAYS AND COMMITTED FRAUD BY SIGNING A STATEMENT THAT DENIED THAT.

2. FORMER MEDICAL PATIENT NANCY HASSE, WAS SENT TO DAMASCUS OFFICE BY THE U.S. DEPT HHS FOR THE PURPOSE INVESTIGATING DAMASCUS. Utah v. Livsey 312 F Supp 1397.

3. MICROPHONES WERE AND ARE STILL PLANTED IN THE ROOF OF DAMASCUS OFFICE AND HOME AND EDITED RECORDINGS OF PATIENT CONVERSATIONS. PRIVACY BASED ON VIOLATIONS OF FOURTH AMENDMENT RIGHTS 823 F2d 1328 SCHOWENGERDT v. GENERAL DYNAMICS (9th Cir 1987)

4. HASSE SIGNED A STATEMENT IN 1984 THAT SHE HAD HAD A NUMB LIP PRIOR TO DAMASCUS PERFORMING ANY DENTAL WORK.

5. THE SURGEON GENERAL HAS EXAMINED PATIENT HASSE AND TRIED TO FILE SUIT IN STATE SUPERIOR COURT FOR DAMASCUS CAUSING THE NUMB LIP. THEY ARE FRAUDULENTLY TRYING TO CONCEAL IDENTITY AS U.S. HHS AGENT.



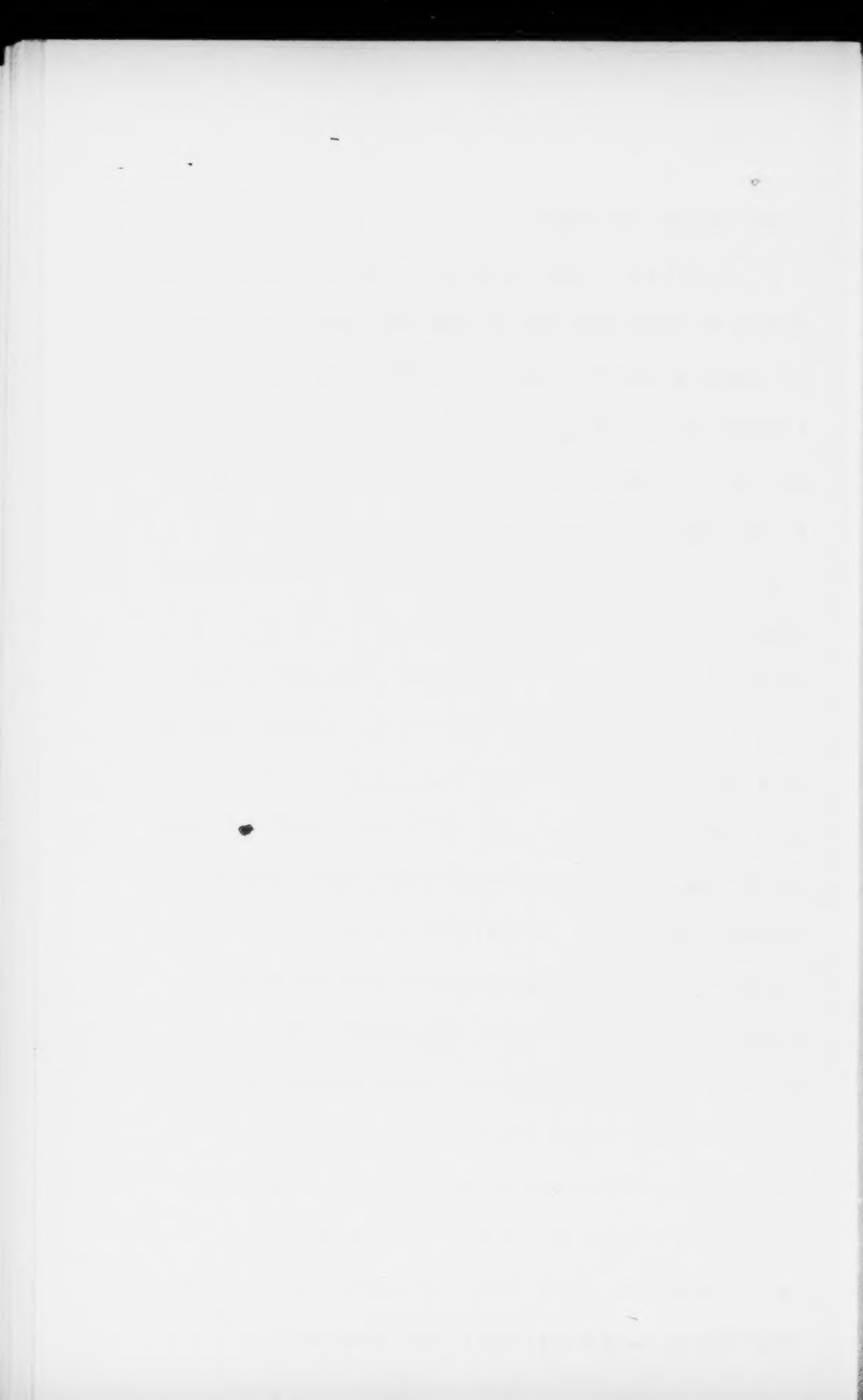


NO LEAVE TO AMEND

Page 8.

Complaint c8520209WA1 was filed on April 8, 1985 Damascus amended as a matter of course on October 21, 1985 and the court issued summons as a matter of course. 28 usc 1337 was cited for breach of contract , fraud and for restraining trade against insurance companies AND "Bivins" 403 U.S. 388 (1971) ., was cited against unknown agents and F.T.C.A. AGAINST U.S. DEPT. HHS.

On November 12, 1985 judge ingram issued and order instructing Damascus not to file any more complaints. THE ORDER MADE IT SEEM LIKE THE SECOND AMENDED COMPLAINT WAS A THIRD COMPLAINT DIFFERENT FROM OTHERS. THE ORDER DENIED ALL DISCOVERY AND INSTRUCTED DAMASCUS TO ONLY PREPARE OPPOSITION FOR A MOTION TO DISMISS TO BE CONSIDERED SOLEY ON THE WRITTEN PLEADINGS. NO HEARING WAS SCHEDULED. ON DECEMBER 9, 1985 DAMASCUS RECEIVED FIRST NOTICE DATED DECEMBER 6, 1985 OF A HEARING WITH ORAL ARGUMENT, THAT WAS PREVIOUSLY SET WITHOUT ANY ARGUMENT.



THIS COMPLAINT presents the CONSTITUTIONAL  
QUESTION of: 1. Whether the court can  
violate attorney-client privilege and  
privacy rights and determine for itself  
that FEDERAL COURT ORDERS FOR SURVEILLANCE  
WERE NOT ABUSED, 2. WHETHER OR NOT A COURT  
ORDER FOR THE INSPECTION OF PLAINTIFF'S  
SAFE DEPOSIT BOX, WITHOUT A WARRENT, IS  
CONSTITUTIONAL, WHEN PARTY NOT PRESENT.;  
WITHHELD INFORMATION IN VIOLATION OF THE  
CALIFORNIA RECORD ACT. & F.O.I.A.

"INVESTIGATIONS" CONDUCTED BY INGRAM AND  
THE COURT OF APPEALS VIOLATED ATTORNEY-  
CLIENT PRIVILEGE AS WELL AS FURTHER ABUSING  
SURVEILLANCE. RESPONDANTS REFUSED TO  
COOPERATE WITH PROCEDURAL ORDERS, & FOR  
RETURN OF PROPERTY DAMASCUS IN POSSESSION  
OF RESPONDANTS OBTAINED THROUGH ABUSED  
COURT ORDERS TO INSPECT DAMASCUS'S WELLS  
FARGO SAFE DEPOSIT BOX, HOUSE, OFFICE AND  
AUTOS. NO WARRENT TO SEARCH CONTENTS OF  
DAMASCUS' PROPERTY WAS EVER PRESENTED TO  
DAMASCUS MOTIONED THE COURT FOR WARRENTS



DAMASCUS ALLEGED THAT

(Page 10.)

"THE UNITED STATES STOLE PROPERTY FROM BANK  
SAFE DEPOSIT BOX," HIRED BORGIA AS AN  
UNDERCOVER AGENT COMMITTING FRAUD AND  
WARRENTLESS SEARCH AND SEIZURE" JUDGE  
INGRAM SAID AT THE ONLY HEARING THAT IT WAS  
"a badly written complaint" AND THAT " THE  
UNITED STATES DOES NOT DO SUCH AND  
SUCH...people do" CONSEQUENTLY BECAUSE  
DAMASCUS DID NOT ALLEGE THAT UNKNOWN NAMED  
AGENTS COMMITTED THE ALLEGED CRIMES HE  
DISMISSED IT ON THE PLEADINGS, AT THE ONLY  
HEARING WHERE DEFENDANT USA APPEARED AS A  
DEFENDANT. AT THE HEARING JUDGE INGRAM SAID  
HE WOULD ALLOW LEAVE TO AMEND, BUT THAT  
DAMASCUS WAS TO AWAIT THE COURTS WRITTEN  
ORDER. However on February 13, 1986 THE  
complaint was DISMISSED WITHOUT LEAVE TO  
AMEND as INGRAM first notified DAMASCUS OF  
HIS DETERMINATION THROUGH HIS OWN SECRATIVE  
IN-CAMERA INVESTIGATIONS THAT HE DID NOT  
DEFINE, OR MAKE AVAILABLE ON APPEAL. How  
can this be "BY THE PEOPLE, FOR THE PEOPLE,

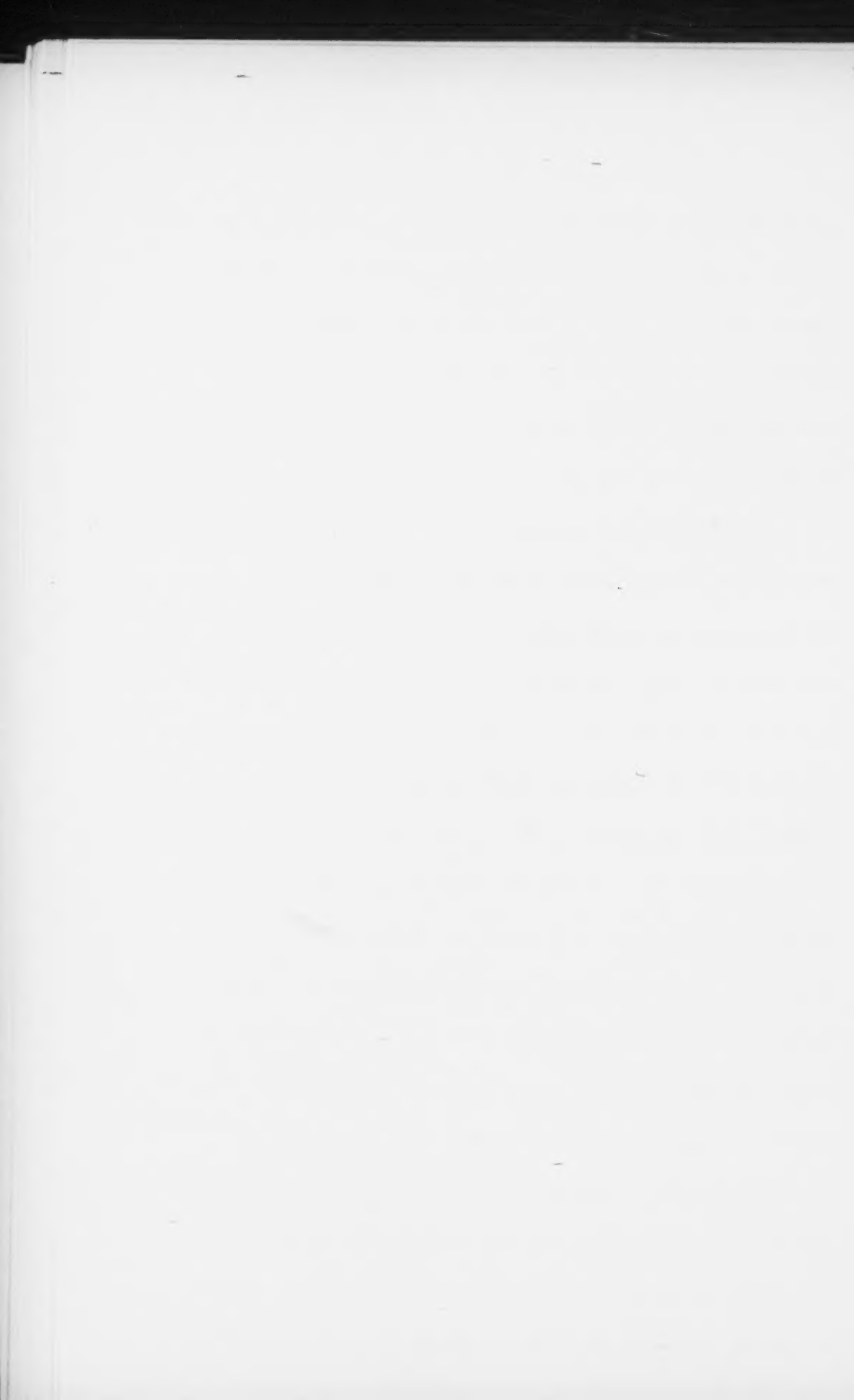


AND OF THE PEOPLE..." ???? - PAGE 11.

On a motion to dismiss, district court is not concerned with the merits, but solely with question of whether pleadings sustained the cause of action. Savada Bros.V.Convillie, D.C.Pa. 1948 8F.R.D.127.

Allegations contained in complaint and exhibits in record must be accepted as true on motion to dismiss on ground of lack of jurisdiction. Salvant v.Louisville N.R.Co.,D.C.Ky. 1949 83F Supp.391.

DAMASCUS CLEARLY STATES A NEW CLAIM UNDER THE FEDERAL TORT CLAIMS ACT AS ALLOWED ON 11/14/86 BY NINTH CIRCUIT IN CASE Atkinson v. United States. 804 F2d 561,813 F2d1006,825 F2d202 BENNETT V. U.S. 803 F2d1502, AND ARNOLD v. U.S. 816 F2d1306 THE United States not immune from suit for medical malpractice, WHEN THEY HAVE CONSPIRED TO PREVENT DAMASCUS FROM BEING ABLE TO HIRE ASSISTENTS THAT ARE NOT POTENTIAL UNDER-COVER AGENTS BENT ON RUINING DAMASCUS'S BUSINESS. Armster v.





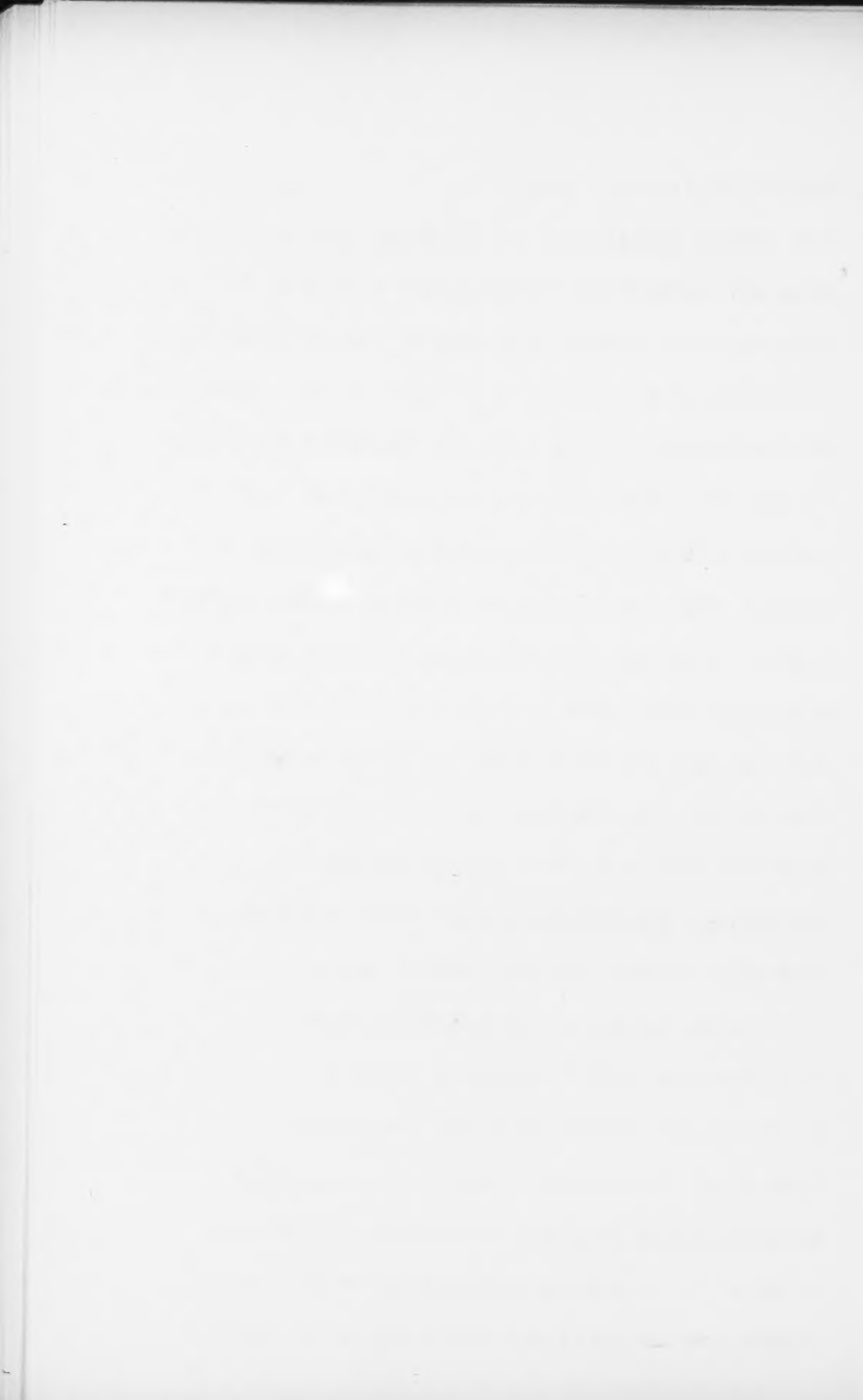
IN Bennett v. United States 803 F2d1502  
THE NINTH CIRCUIT RECENTLY DECIDED THAT the  
Government is not immune from liability for  
employee s intentional torts.

DAMASCUS ALLEGED IN COMPLAINT C86-20234RPA  
that unknown named agents for the  
Department of Health Service of the State  
of California, the U.S. Department of  
Health and Human Services and unknown  
agents of unknown agencies of the State of  
California and the unknown agents working  
for the Office of the United States  
attorney General s office conspired to gain  
access to DAMASCUS s Safe Deposit Box and  
have damaged him by Invasion of Privacy,  
Violation of Civil and Constitutional  
Rights under BIVINS Unlawful Search and  
Seizure, Trespassing, Intrusion upon  
Private Premises for no good reasons,  
Conspiracy to cover up evidence,& theft.  
DISCOVERY WAS DEMANDED FOR RETURN OF  
PROPERTY SEIZED PURSUANT TO 4th AMENDMENT



DAMASCUS alleged that: page 14.

THE TORTS COMMITTED BY FEDERAL EMPLOYEES  
SHOW AN INTENTION-DISREGARD FOR THE  
fourth, fourteenth AMENDMENT AND PRIVACYCal  
v.Krivda and Katz v. U.S.389U.S.347 RIGHTS  
OF DAMASCUS GIVING RISE TO DAMAGES PURSUANT  
TO 28 USC 1346(b),2671 et seq. AND THAT THE  
ISSUES PRESENT FEDERAL QUESTIONS THAT  
SHOULD REASONABLY BE DECIDED BY JURY.TURNER  
v.ABA 92 ALR2d 306.Kotwica v. TUSON 682F2d  
858,865: that the investigations are so  
outrageous as to blatantly interfere with  
the telephone communications of Damascus  
RUINING HIS BUSINESS UNDER GUISE OF  
"CRIMINAL INVESTIGATIONS" INITIATED WHEN  
DAMASCUS FIRED DepthHHS AGENT Borgia IN 1983  
Judge Agulars friend Quin Atty for  
U.S.DepthHHS AGENT Hasse's Complaint filed  
in Superior Court against Defendant  
Damascus. Damascus filed C-86-20234RPA  
before judge Agular. Although procedural  
orders for liberal discovery were issued  
Judge Ingram unfiled the complaint before



Judge Aguilar without aguilar ever signing off a statement of related cases. INGRAM DISMISSED NEW COMPLAINTS WITHIN 10 DAYS AFTER DAMASCUS FILED THEM, WITHOUT MOTION.

This court cannot allow concealment of facts and fraud OF Judges Ingram s and Agulars secrative determination that a claim be dismissed pursuant to 12(b)6.

Alleged deprivation of Constitutional rights and unlawfull Search and Seizure of Property including Hasse's records allows this courts original jurisdiction Virginia v. Rives(1980)100us 313, 25LEd667. The district court opinion that Damascus Complaints were "frivolous." WITHOUT ALLOWING DISCOVERY IS UNREASONABLE. TURNER v.ABA 92 ALR 2d 306.Court investigations used Damascus atty secretly hired by the court that Damascus paid services for exclusively for research purposes, yet affidavits and edited tapes of Damascus and sting Operation Legal Reaserch were never



made available to Damascus.

THE COURT HAS ALLOWED THE ATTY GEN TO MAKE edited RECORDINGS OF CONVERSATION BETWEEN DAMASCUS AND HIS ATTY AND DAMASCUS WANTS TO COMARE THESE RECORDINGS WITH ONE HE HIMSELF MADE FOR PURPOSES OF EXPOING IMPEACHABLE TESTIMONY.

#### FORCE AND EFFECT OF LOCAL RULES

Considerable deference is accorded to district courts interpretation and application of their own rules of practice and procedure, but where court of appeals COMMITS FRAUD, WHILE CONDUCTING HARRASSING INVESTIGATIONS USING COURT CLERKS, UNDER THE GUISE OF JUDICIAL REVIEW OF THE DISTRICT COURT JUDGE and turning an interlockatory appeal for termination of abused surveillance into another investigation of Damascus, in cooperation with respondents 9th Cir 86-8045 yet attempting to keep all information secret from Damascus, the courts have abused and



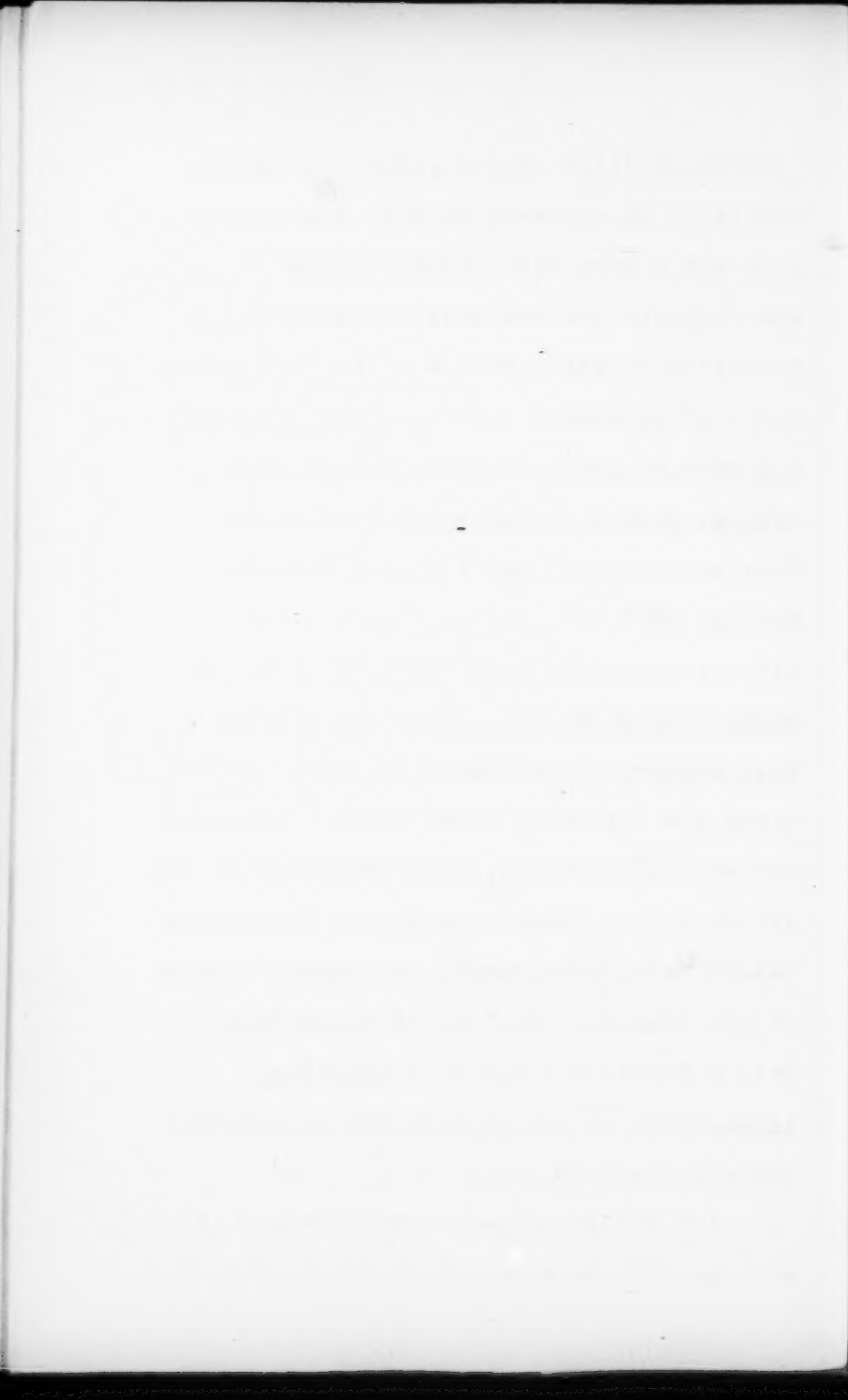


misconstrued their own rules. REVERSAL is warranted. Smith v. Ford Motor Co., C.A.Wyo. 1980, 626 F.2d 784, THE COURT OF APPEALS HAS HEARD EDITED TAPE RECORDING OF DAMASCUS THROUGH THE MICROPHONES IN DAMASCUS'S OFFICE YET IT WILL NOT REVERSE THE DISMISSAL OF CIVIL AND PRIVACY RIGHTS COMPLAINT WHERE Damascus alleged "The United States District Court for the Northern District of California issued court orders for telephone surveillance BASED ON FRAUDULENT AFFIDAVITS and has affirmed DISMISSAL OF COMPLAINTS PURSUANT TO 12(b)(6) AS FRIVOLOUS allowing both the District Court and the Court of Appeals to HEAR EXTRANEOUS MATERIALS IN MAKING THEIR DECISION THAT COMPLAINTS AND PETITIONS WERE "FRIVOLOUS" YET DENING DAMASCUS ALL DISCOVERY AND CANCELLATION OF THE INITIAL STATUS CONFERENCE AS ORIGINALLY ORDERED IN THE COURTS OWN PROCEDURAL ORDERS. Friedman v. Washburn 145 F2d 715



Damascus filed the original      PAGE 18.  
complaint AS a breach of oral and written  
contract signed with intent to commit fraud  
and restrain the business of Damascus  
committed by patty borgia alleged to be an  
agent of Defendant U.S.A. , Damascus cited  
a breach of contract under 28 usc 1337  
against insurance companies Blue Cross,  
California Dental Service, and Private  
Medical Care inc. and in recent ninth  
circuit decisions ninth circuit cited in  
Appellants objection to hearing without  
oral argument filed March 23, 1987 damascus  
cited the following ninth circuit decisions  
concerning CONTRACTS, GOVERNMENT TORTS, AND  
BIVINS A Jury SHOULD reasonably decide the  
issues here. Const. Amend. 14. -Maddox v. City  
of Los Angeles, 792 F.2d 1408. Dimidowich v.  
Bell & Howell 803 F2d 1473. Conspiracy  
allegations in hybrid business arrangement  
properly left to jury.

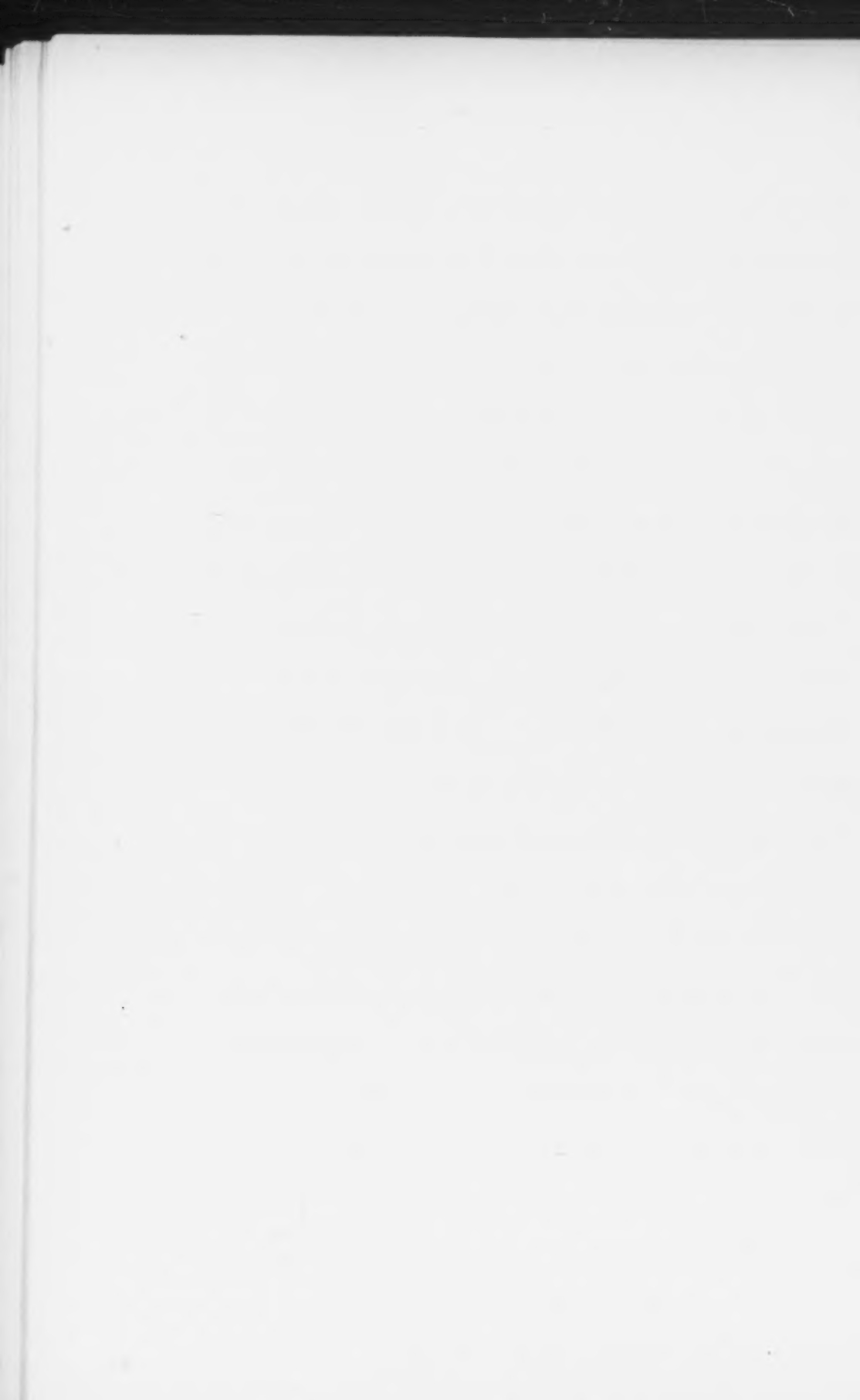
The chalanged government conduct is of  
such an egregious nature as to constitute a



deprivation of fundamental due page 19,  
process rights within the meaning of the  
governing ROCHIN and MEREDITH. Rutherford  
v. City of Berkeley, 780 F2d 1444.

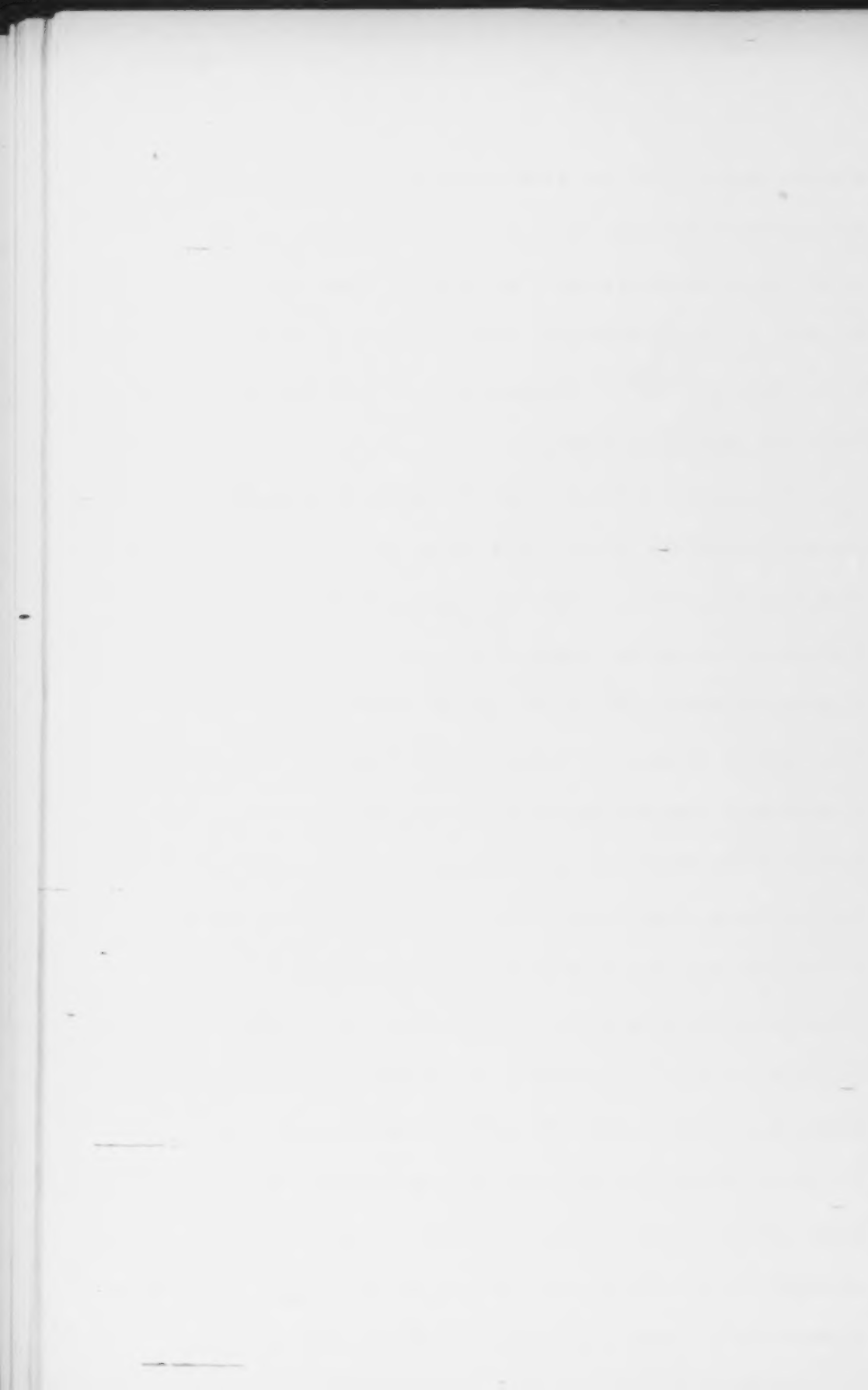
#### BIVENS

Petitioner has standing to challenge  
Search Warrant Executed to remove and copy  
property at SAFE DEPOSIT BOX, but withheld  
from him by WELLS FARGO BANK. Although the  
court DID not allow any discovery to  
Damascus, WHEN PROERTY IS MISSING AND NO  
WARRENT EVER PRESENTED UPON PLAINTIFF  
the "Objective Reasonableness" Standard  
defineing the qualified immunity available  
must be challenged, TURNER v. ABA 92 ALR 2d  
306. Discovery is demanded by Damascus & a  
hearing PURSUANT TO THE FOURTH AMENDMENT  
BECAUSE ONLY DISCOVERY and a jury trial  
will expose if Damage to his property,  
including character assasination, caused by  
a biased analysis of copied journals  
(diaries) was caused by more than mere  
negligence; gross negligence in training or



supervising and an insensitivity page 20  
to constitutional and privacy rights gives  
rise to liability and as authorized by  
Bivens v. Six Unknown Named Agents, 403  
U.S. 388 (1971). Bergquist v. County of  
Cochise 806 F2d 1364

The court should not determine grave  
constitutional questions upon a  
demurrer Picking v. Pennsylvania F.2d 240.  
Damascus alleged fraudulent  
misrepresentation that cause deprivation of  
4th Amend (Page v. Comert 243 F2d 245 Simple  
discovery requests to produce documents,  
acopy of a search warrant, a court order  
for wire surveillance and simple answers to  
interrogatories are not unreasonable  
requests before dismissing complaint ON A  
12(b)6 to yet considering impeachable  
testimony in chambers and considering  
afidavits for telephone surveillance as if  
they were a jury verdict while damascus has  
reason to dispute documents outside the  
pleadings, used to DENY LEAVE TO AMEND to a





FURSUANT TO 12(B)6 WITH PREJUDICE

Damascus complained that the search WITHOUTwarrant and federal court orders for surveillance were issued without probable cause and mistakenly and fraudulently executed at Damascus residence, office, house and bank safe-deposit box in an unreasonable and excessive manner, alleging: the parties altered documents, stole property, defamed damascus misconstrued copies of handwritten documents and pictures for the purpose of initiating further investigations causing further harrassment and further violating appellants privacy rights,"to manufacture reasons for Borgia's existence(as an undercover agent), cover up reasons for initial discriminatory and unconstitutional investigations to acheive an end result to justify the means of an unlawfull investigation."Damascus named the Santa Clara Police who Have Damascus harrassed by



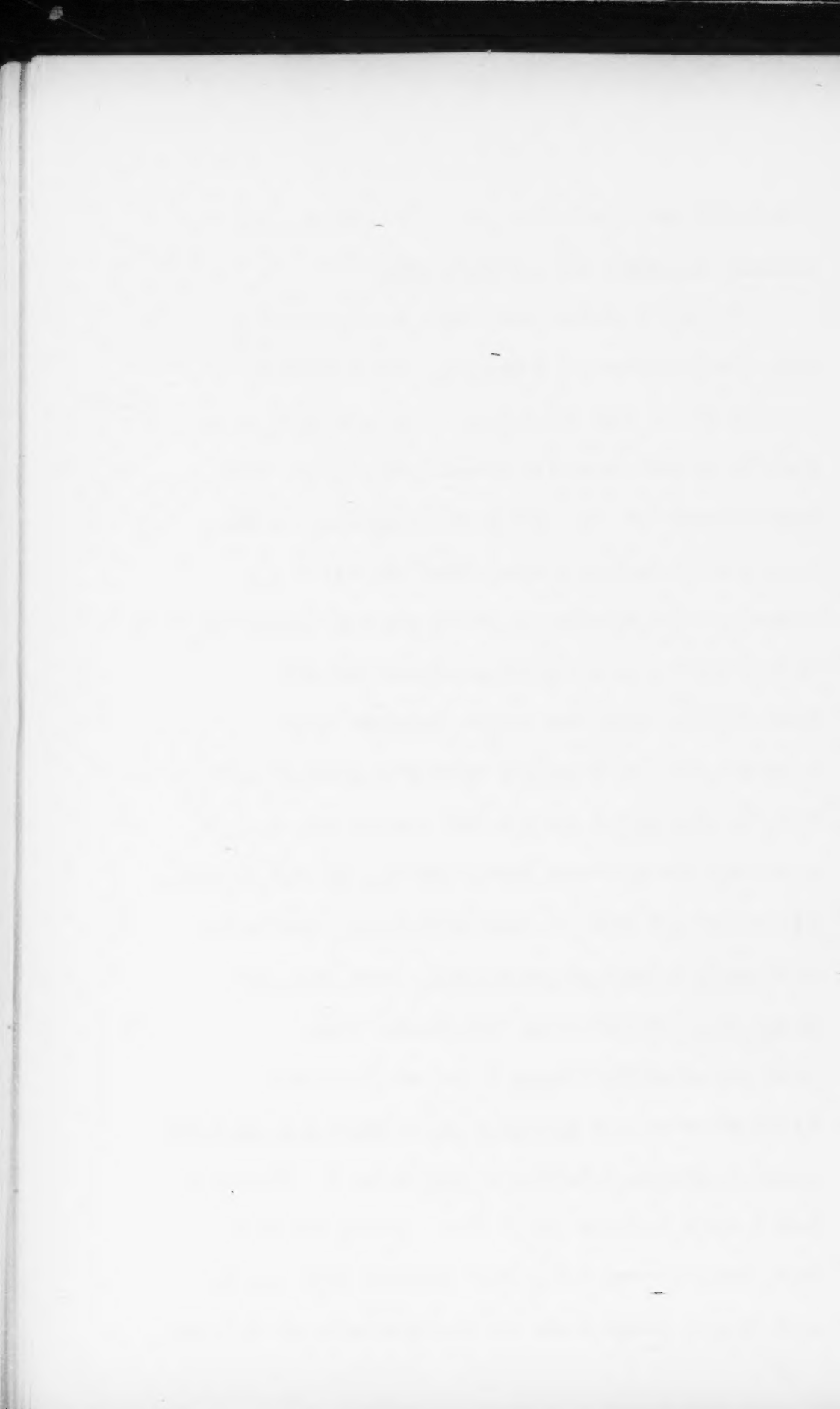
supposedly rehabilitated addicts and the  
allegations include police page 22  
reports of Damascus being withheld after  
Damascus was assaulted by criminals under  
guise of investigations.

Damascus does not use drugs yet the  
D.E.A. has interferred with the sale and  
rental of Damascus's property to promote  
Depart HHS investigations allegedly under  
color of law. ANTITRUST  
COMPLAINTS ALLEGED THAT DEFENDANT, THE  
DIRECTOR OF THE BOARD OF DENTAL EXAMINERS  
WHO, conspired to plant agent Borgia in  
Petitioner's office and COMPETED FOR  
PATIENTS IN THE SAME 3MILE AREA AS  
DAMASCUS, INITIATED UNUSUAL AND  
UNPRESCIDENTED INVESTIGATIONS USING BORGIA  
AS AN UNDERCOVER AGENT TO DAMAGE THE  
CHARACTER AND RESTRAIN THE TRADE OF  
DAMASCUS COULD ALSO BE HELD LIABLE FOR  
MISCONDUCT UNDER 28USC 1337. 802 F2d 941  
Miller v. Hedlund(9thCir) "Oregon violated  
Sherman Act."85-1592 (9th Cir)803 F2d 1143



ACTION ALLOWED BY COMPETITOR.

DAMASCUS asserted that exclusively California Dental Association members monopolized the California State Board of Dental Examiners in conspiracy with the Department of Health and Human Services, using exclusively American Dental Association members, initiated a unlawful and discriminatory investigation of Petitioner who was a non-member and competitor of the CDA members investigating him alleging an antitrust cause of action against conspiring defendants. Since these allegations ARE in the original complaint and anti-trust allegations need not be specific, Petitioner contends that amendment with respect to anti-trust allegations, is subject to liberal pleading requirements. (Radiant Burners, v. Peoples Gas Light & Coke Co., Ill. 1961, 81 S.Ct. 365, 364.) concerning the misrepresentation and fraud committed by borgia and violation



of due process rights by page 24.  
interferences with Petitioner's business.

DAMASCUS ASSERTED IMPLIED CONTRACTS FOR  
PAYMENT FOR NORMAL SERVICES WITH "WELLS  
FARGO BANK AND PACIFIC BELL, AND THAT THERE  
EXISTS AN IMPLIED CONTRACT-THAT A BANK SAFE  
DEPOSIT BOX BE SAFE FROM WARRENTLESS  
SEARCH AND SEIZURE PURSUANT TO THE FOURTH  
AMENDMENT TO THE U.S. CONSTITUTION. AND  
THAT PACIFIC BELL ACCEPTED OVER \$20,000  
DOLLARS AS PAYMENT FOR AN IMPLIED CONTRACT  
FOR NORMAL TELEPHONE SERVICES AND WHEN  
PLAINTIFF IS NOT PROTECTED FROM ABUSES OF  
SURVEILLANCE AND MONEY IS TAKEN, THAT ALSO  
CONSTITUTES FRAUD." PART OF THE PROBLEMS  
ONLY COMPENSATED FOR IN THE AMOUNT OF \$492  
OCCURRED DURING 1983 WHEN PACIFIC TELEPHONE  
MONOPOLIZED SERVICES. 9TH Cir No.85-6094

"Landsberg v. Scrabble"-Implied contract  
arose from limited disclosure of  
manuscript. California law allows for  
recovery for the breach of an implied-in-  
fact contract. (SEE BACK COVER)=FRAUD





SINCE MICROPHONES NOW EXIST page 25.

IN THE RETARRED ROOF OF APPELLANTS OFFICE  
AND ARE USED BY UNKNOWN AGENTS OF UNKNOWN  
LAW ENFORCEMENT AGENCIES TO LEAK  
INFORMATION TO INSURANCE INVESTIGATORS, THE  
MEDIA AND OTHER PUBLIC AND PRIVATE  
INVESTIGATORS AND SINCE APPELLANT CITED  
BIVENS IN THE COMPLAINT CONCERNING BLATENT  
VIOLATION OF PRIVACY RIGHTS. APPELLANT  
CONTENDS THAT WITH RESPECT TO HIS PRIVACY  
RIGHTS HE AT LEAST STATES A BIVINS CLAIM  
THAT SHOULD NOT BE DISMISSED ON THE  
PLEADINGS.-Clark v. Yosemite Community  
College Dept., 785 F2d 781.

Fact that there are adequate  
postdeprivation procedures available under  
state law for random and unauthorized  
conduct by state employee does not  
preclude Petitioners from bringing action  
for direct violation of their  
constitutional rights, and due process  
rights secured by Constitution or federal  
statutes.-Gibson v. U.S., 781 F.2d 1334.



JUDGE INGRAM ADJUCIATED ENTIRE CASE  
THROUGH IN-CAMERA INVESTIGATIONS IN JUDGES  
CHAMBERS WITH OPPOSING COUNCIL AND WITHOUT  
ALLOWING PLAINTIFF ACTING IN PRO FER TO BE  
PRESENT. EVEN THE RESULTS OF JUDGE INGRAMS  
SECRATIVE IN-CAMERA INVESTIGATIONS WERE  
NEVER REVEALED TO PLAINTIFF NOR ALLOWED TO  
BE SEEN BY PLAINTIFF WHEN THE DISMISSAL WAS  
APPEALED. PLAINTIFF WAS ONLY GIVEN FIVE  
DAYS NOTICE OF THE HEARING ON DECEMBER 13,  
1985 WHICH WAS ORIGINALLY SET TO BE HEARD  
WITHOUT ORAL ARGUMENT. PLAINTIFF ALLEGED IN  
second Complaint 86-20229WAI THAT TELEPHONE  
SURVEILLANCE WAS ABUSED TO LIMIT  
PLAINTIFF'S ABILITY TO FIND OR AFFORD AN  
ATTORNEY. THE COURT WOULD NOT COMPELL ANY  
DISCOVERY FROM ANY FEDERAL OR STATE AGENCY.

NONE OF THE DEFENDANTS IN C86-20229WAI  
OR C86-20234RPA WERE ALLOWED TO BE SERVED  
BEFORE COMPLAINTS WERE ALL CONSOLIDATED  
WITH C85-20209WAI AND DISMISSED WITHIN ten  
DAYS OF FILING OF THE COMPLAINTS.  
WITHOUT MOTION FROM ANY DEFENDANTS.



PLAINTIFF NAMED DIFFERENT page 27.

DEFENDANTS CITED DIFFERENT JURISDICTIONS  
AND EXPECTED TO BE ABLE TO AMEND TWO 1986  
COMPLAINTS AS A MATTER OF COURSE PRIOR TO  
SERVING COMPLAINTS BASED ON FEDERAL TORT  
CLAIMS ACT AND BIVINS. AGAIN JUDGE INGRAM  
DISMISSED NEW COMPLAINTS BASED ON HIS OWN  
IN-CAMERA INVESTIGATIONS WITH DEFENDANTS  
YET WITHOUT ALLOWING DAMASCUS TO  
PARTICIPATE.

IN DAMASCUS'S BREIFS. DAMASCUS ALLEGED  
THAT THE DISTRICT COURT ABUSED DISCRETION  
BY NOT ALLOWING LEAVE TO AMEND AFTER  
CONSIDERING EXTRANIOUS MATERIALS OUTSIDE  
THE PLEADINGS. DAMASCUS MADE THE COURT OF  
APPEALS AWARE OF THE FACT THAT SINCE THE  
DISMISSAL OF COMPLAINTS PATIENTS ACTING AS  
INVESTIGATORS FOR THE U.S. DEPARTMENT OF  
HEALTH AND HUMAN SERVICES INVESTIGATIONS  
FILED COMPLAINTS IN STATE COURT AGAINST  
DAMASCUS AND ARGUED THAT THE ALLEGED ABUSED  
TELEPHONE SURVEILLANCE WAS ONGOING AND  
LIMITED DAMASCUS'S ABILITY TO FIND OR



AFFORD AN ATTORNEY.

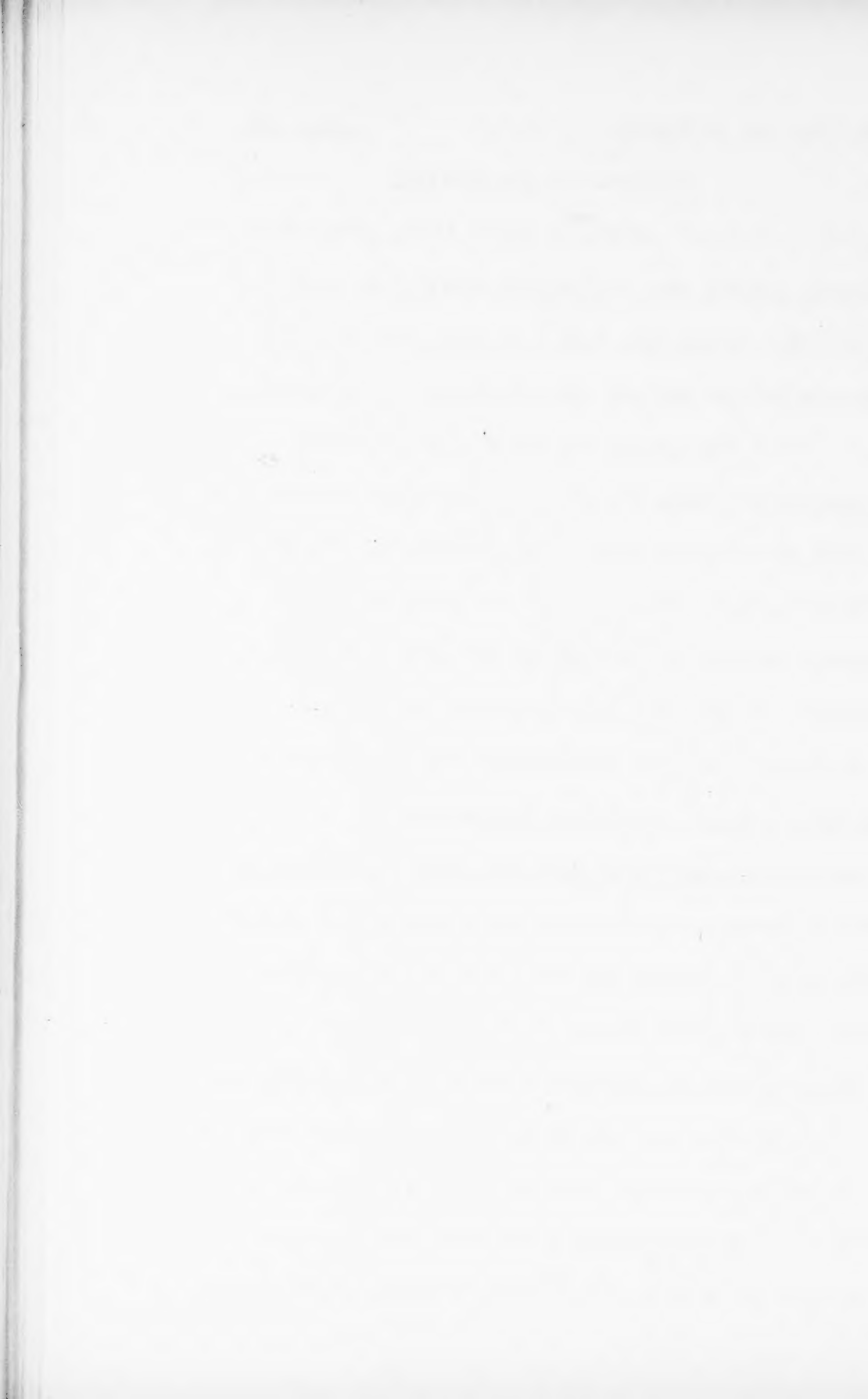
page 28.

ARGUMENTS ON APPEAL

JULY 17, 1987 HEARING WITH ORAL ARGUMENT  
JUDGE SNEED WHO PRESIDED OVER THE NINTH  
CIRCUIT VIOLATED THE F.R.App.PRO BY NOT  
ALLOWING DAMASCUS ANY CLOSING ARGUMENTS.

THIS PETITION IS BASED ON ALLEGED  
CONSTITUTIONAL RIGHTS VIOLATIONS WHERE THE  
LACK OF "COMPETANT" JURISDICTION DENIES  
PETITIONER THE ABILITY TO EXPOSE  
INVOLVEMENT OF CO-CONSPIRATORS, ACTING  
UNDER COVER AND UNDER COLOR OF LAW.  
PROSECUTION AND JUDGEMENT RENDERED IN a  
STATE COURT, without "competent"  
jurisdiction PURSUANT TO 18USC 2518(8)(b)  
to expose involvement of allegedly abused  
federally court surveillance, WILL DENY  
PETITIONER THE ABILITY TO ADEQUITLY  
PROSCECUTE OF DEFEND CASES IN SUPERIOR CT.:

1.making it imposible to enforce rights  
in State Courts, and 2. not allowing  
PETITIONER/Defendant to recieve a fair  
trial in state court FOR STAGED COMPLAINTS.





TO ASSUME THAT THIS PETITION IS page 29  
"FRIVOLOUS" IS AN INSULT THE CONSTITUTION OF  
THE UNITED STATES, citing 682 F.2d 858, 865  
(9th Cir. 1982) AND ANDERSON v. CENTRAL  
POINT SCHOOL DISTRICT, 746 F.2d 505, 507 (9TH  
Cir. 1984), and PICKING, 391 US at 570.

DAMASCUS CONTENDS THAT RECENT NINTH  
CIRCUIT DECISIONS ALSO PROVIDE THAT  
GOVERNMENT AGENTS PMI, INC. COULD BE HELD  
LIABLE FOR BREACH OF WRITTEN CONTRACT UNDER  
28 USC 1337, 802 F2d 941 Miller v. Hedlund

DAMASCUS ALLEGES THAT THE DEPARTMENT OF  
HEALTH SERVICES RESTRAINED THE TRADE OF  
PLAINTIFF IN AN UNPRECEDENTED AND RECLESS  
MANNER INTENTIONALLY CAUSING BREACHES OF  
CONTRACTS, ABUSING COURT ORDERS WITH A  
RECLESS DISREGUARD FOR THE PRIVACY RIGHTS  
OF PLAINTIFF. Bergquist v. County of Cochise  
806 F2d 1364.

IT IS DAMASCUS'S ALLEGES THE COURT IS  
ALLOWING ALLEGELY UNCONSTITUTIONAL  
INVESTIGATIONS TO GO ON INDEFINATELY AND  
ALLOWING ALLEGED ONGOING ABUSES OF



FEDERALLY COURT ORDERED

page 30

TELEPHONE SURVEILLANCE WITHOUT ALLOWING A  
HEARING AND DISCOVERY WHILE PLAINTIFF IS  
ACTING IN PRO PER, IS EQUIVALANT TO DENYING  
PLAINTIFF HIS CONSTITUTIONAL RIGHTS, AS  
WELL AS PRIVACY RIGHTS AND ATTORNEY-CLIENT  
PRIVILAGE. DAMASCUS'S PETITION IS FOR  
REDRESS OF GRIEVENCES. THE GREAT FORE-  
FATHERS OF OUR COUNTRY WROTE THE  
CONSTITUTION, IN PART TO PROTECT AND  
PRESERVE THE RIGHTS OF CITIZENS, TO  
GUARANTEE DUE PROCESS OF LAW TO THE COMMON  
MAN AND NOT JUST TO APPEASE A SEMETIC GAME  
AMONGST ATTORNEYS. Complaints FOR PRESER-  
VATION OF CONSTITUTIONAL Rights are to be  
construed and leave to amend granted  
liberally. Parties proceeding pro se are  
to be accorded liberal treatment when they  
attempted to grapple with the intricacies  
of federal practice. Wis.1974, Firnhaber v.  
Sensenbrenner, 385 F.Supp.406 F.R.C.P.  
supp. Rule 8 p. 286.

DATED: March 29, 1988





FILED DEC 4, 1985  
WILLIAM WHITTAKER  
CLERK, U.S. DIST. CT.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
ALEXANDER DAMASCUS)

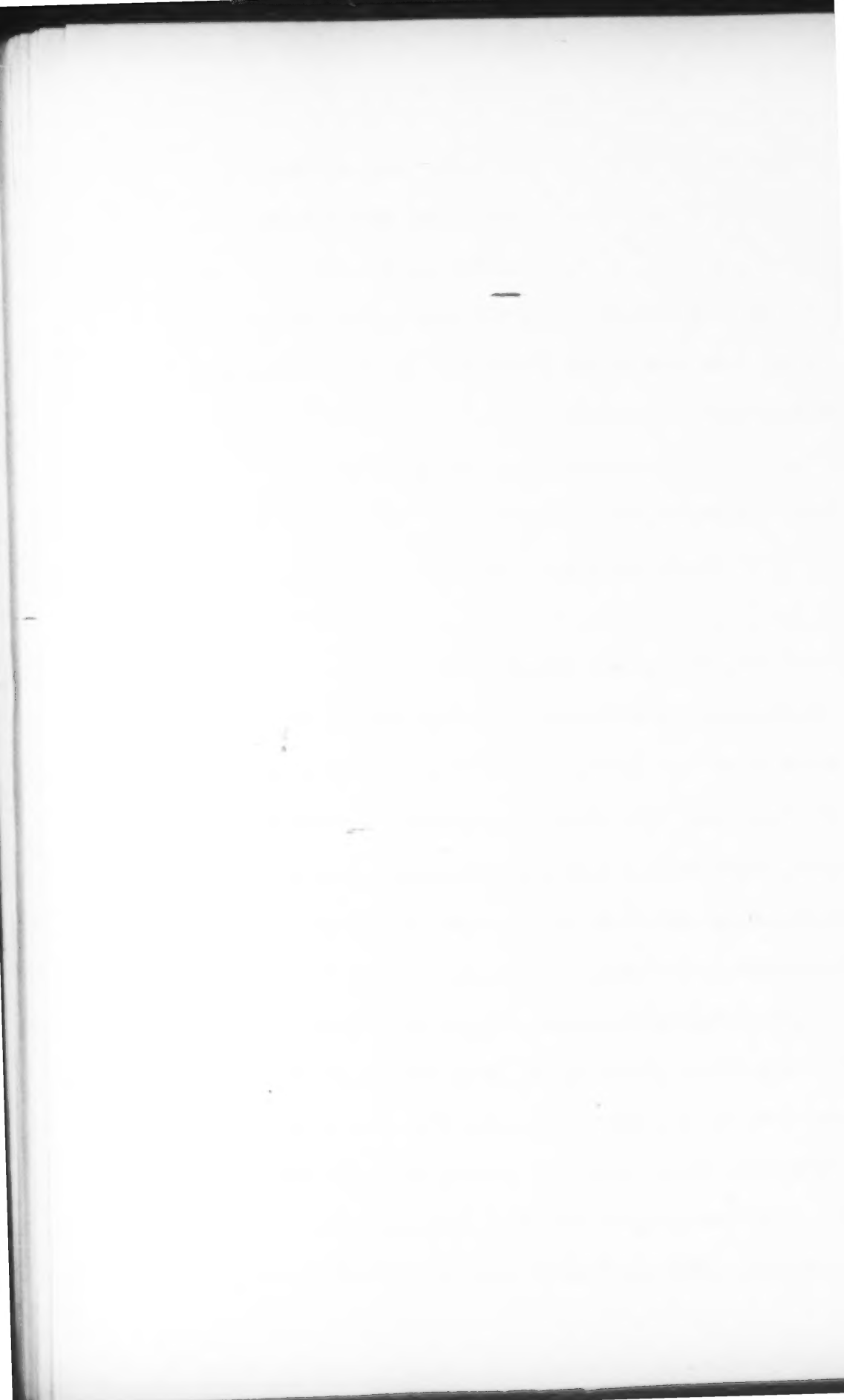
v. Plaintiff) No. 86-20209WA1  
PATTY BORGIA, et al)

Defendants) ORDER

\_\_\_\_\_ )  
The Court hereby ORDERS:

Defendant's motions to dismiss, AT PRESENT  
scheduled to be heard WITHOUT oral argument  
on December 13, 1985, shall now be heard BY  
ORAL ARGUMENT in the courtroom of the  
honorable William A. Ingram at 10AM on  
December 13, 1985.

Defendants wishing to file a reply to  
Plaintiff's opposition may now file such  
memoranda by December 12, 1985. In all other  
respects this court's order of November  
12, 1985 is confirmed and will stand.  
(INGRAM KNEW DAMASCUS DID NOT HAVE AN ATTY.)



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ALEXANDER DAMASCUS

v. Plaintiff SUMMONS IN CIVIL ACTION

PATTY BORGIA, et al

Defendants CASE NUMBER

No. 86-20209WAI

SECOND AMENDED COMPLAINT

TO:

PATTY BORGIA, THE UNITED STATES OF  
AMERICA, DIRECTOR OF THE BOARD OF DENTAL  
EXAMINERS, THE STATE OF CALIFORNIA, THE  
CALIFORNIA DENTAL ASSOCIATION, CALIFORNIA  
DENTAL SERVICE, BLUE CROSS, THE SANTA CLARA  
COUNTY DENTAL SOCIETY, PRIVATE MEDICAL CARE  
INC.,

PLAINTIFF'S ATTORNEY: pro per

an answer to the complaint which is  
herewith served upon you, within 30/60 days

WILLIAM L WHITTAKER OCTOBER 21, 1985

CAROLYN SHANNON DATE:

DEPUTY CLERK (SEAL STAMPED)

(ISSUED BY CLERK AS MATTER OF COURSE)





FILED APR 8 4:06pm 85

WILLIAM WHITTAKER

CLERK, U.S. DIST. CT.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
ALEXANDER DAMASCUS)

v. Plaintiff) No. 86-20209WAI

FATTY BORGIA, et al) ORDER RE:

Defendants) PROCEDURAL ORDER,

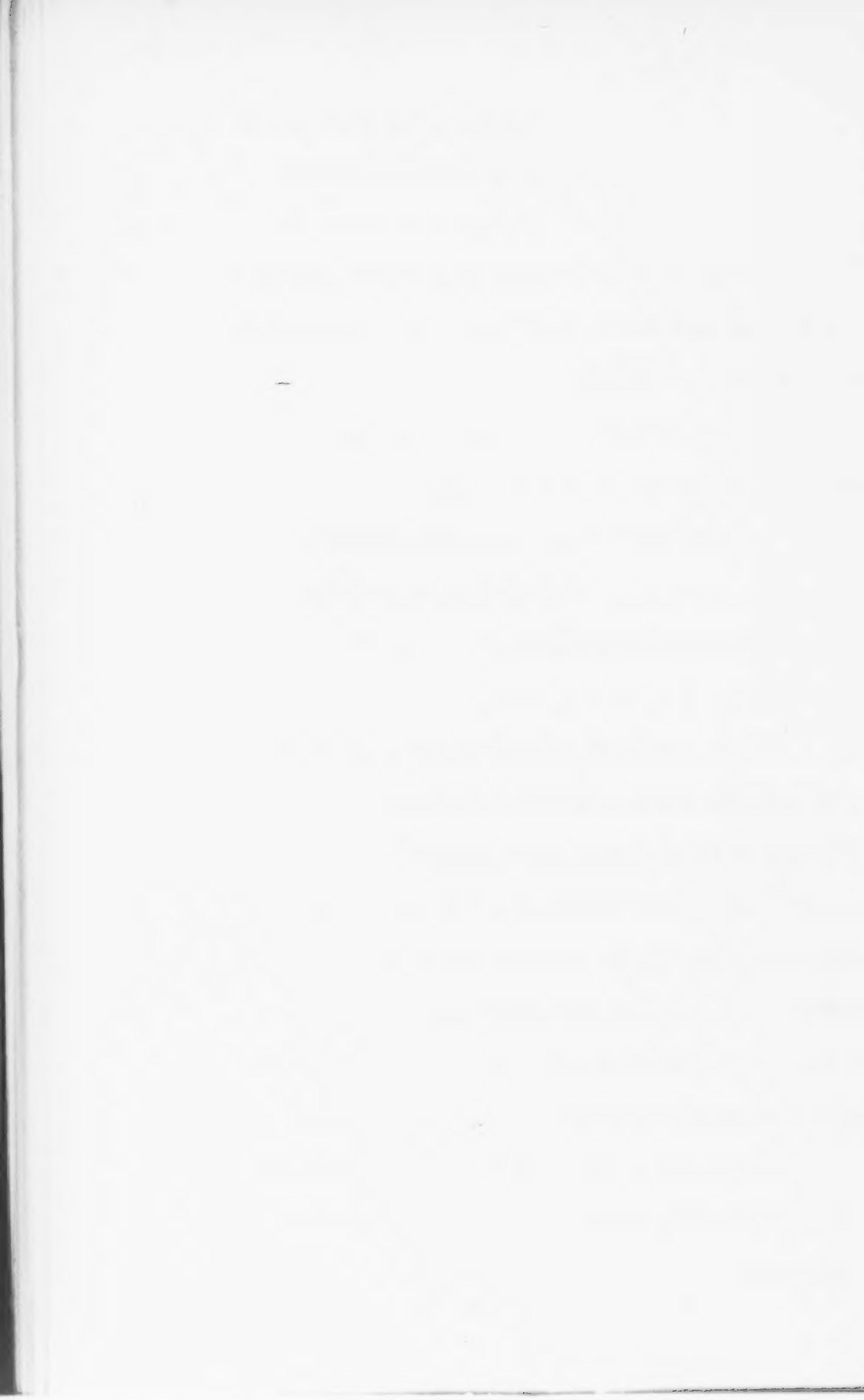
\_\_\_\_\_) STATUS CONFERENCE

III. STATUS CONFERENCE

\_\_\_\_\_  
IT IS FURTHER ORDERED THAT A STATUS  
CONFERENCE SHALL BE HELD PURSUANT TO RULE  
235-3, before Honorable Wayne Brazil.

at the conclusion of the conference,  
appropriate order will be entered setting  
dates for future conference, or for a  
pre-trial conference, close of discovery  
and proceedings may also be entered.

Failure to comply with this order will  
result in the imposition of sanctions,  
council.



FILED DEC 9, 1985  
WILLIAM WHITTAKER  
CLERK, U.S. DIST. CT.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALEXANDER DAMASCUS)  
v. Plaintiff) No. 86-20209WAI  
PATTY BORGIA, et al)  
Defendants) ORDER

---

The court hereby orders  
Plaintiff sought an ex-parte extension of  
time to file opposition and prepare for  
hearing. Even though the hearing was only  
noticed on Dec 4, 1985 for the hearing WITH  
oral argument that was previously set to be  
considered on the Pleadings, Plaintiff's  
request is DENIED. The court is unwilling  
to grant extension of time without  
stipulation of all parties. Counsel for  
Defendants have indicated that they are  
unable to stipulate such an extension.  
DATED: 12/9/85 inoram

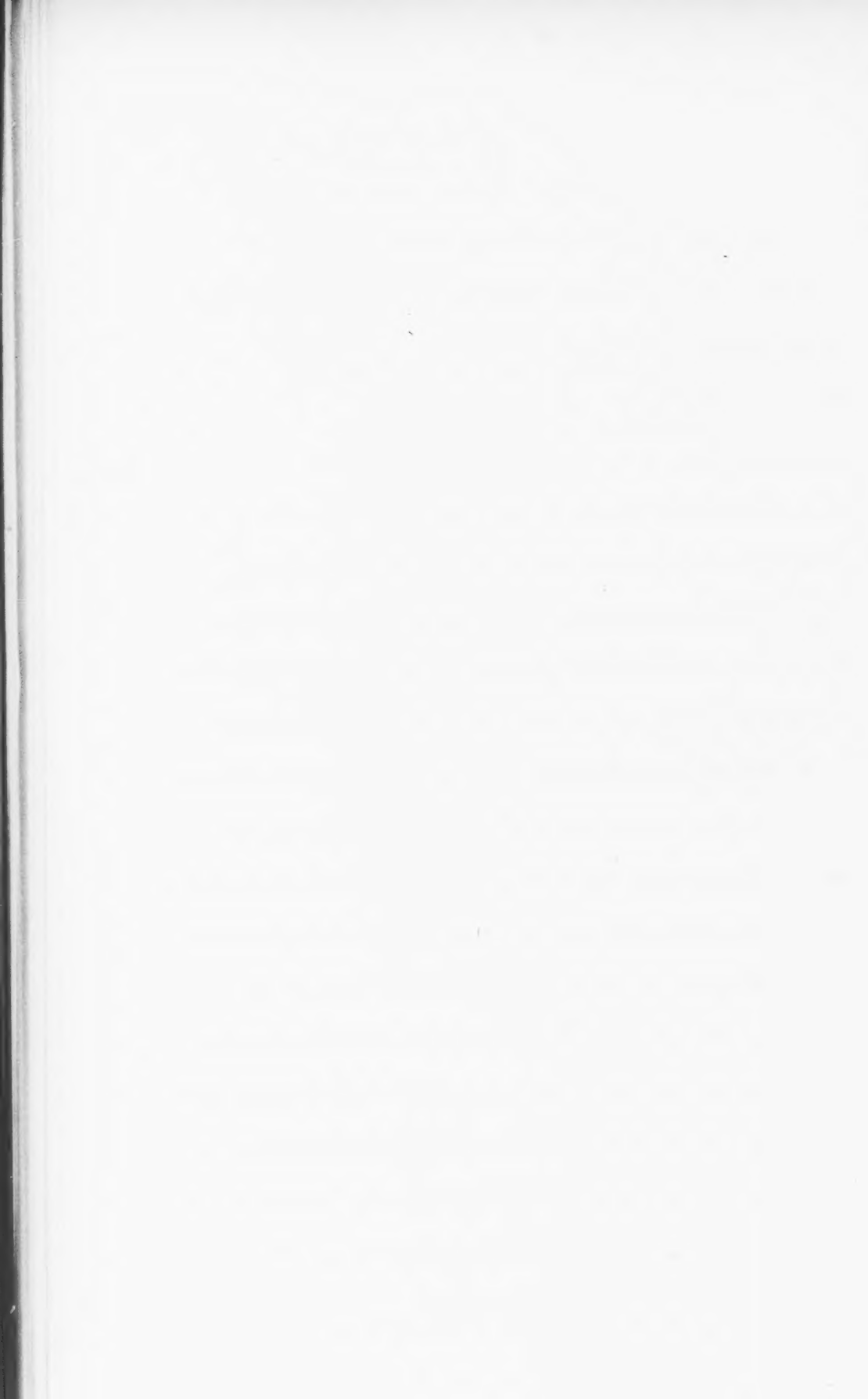


FILED FEB 13, 1986  
WILLIAM WHITTAKER  
CLERK, U.S. DIST. CT.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALEXANDER DAMASCUS)  
v. Plaintiff) No. 86-20209WAI  
PATTY BORGIA, et al)  
Defendants) ORDER

Defendants, the United States of  
America, State of California, California  
Dental Service, California Dental Assoc.,  
Private Medical Care Inc., Director of the  
Board of Dental Examiners, Blue Cross, and  
the Santa Clara County Dental Society, have  
moved for dismissal of the Complaint on  
file pursuant to the provisions of F.R.C.P.  
12(b)6. the motion of each of said moving  
defendants is GRANTED WITHOUT LEAVE TO  
AMEND. On Dec 13, 1985 the court heard oral  
arguments on each of the foregoing motions.  
Plaintiff Alexander Damascus appeared in  
pro per, but was accompanied by Raymond R.  
Grueneich, Esq., Santa Cruz, Calif, who  
participated in the hearing.  
(NO CASES WERE CITED FOR HIS ACTION)



FILED FEB 24, 1985  
WILLIAM WITTIKER, CLERK

UNITED STATES DISTRICT COURT

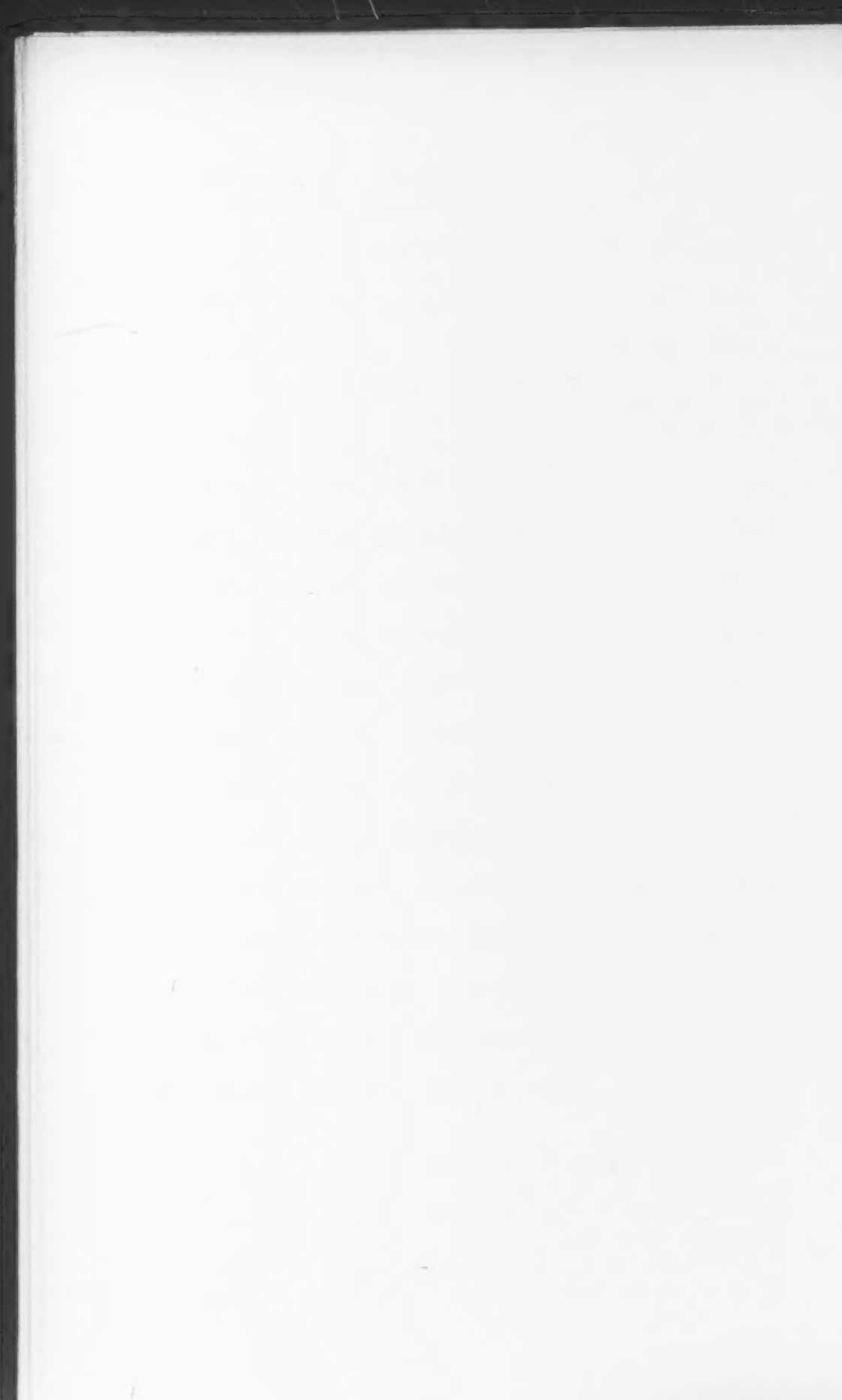
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALEXANDER DAMASCUS       )       NO. C-85-20209WAI  
v.       PLAINTIFF       )       ORDER  
PATTY BORGIA, U.S.A.    )  
Defendants               )

Plaintiff has requested a writ of mandamus compelling Pacific Bell to answer interrogatories. for the reasons set forth below, Plaintiff's request is denied.

DATED: 2/23/86   INGRAM

(PLAINTIFF STATED THAT THE STATE COURT LACKED COMPETITENT JURISDICTION PURSUANT TO 18 USC 2518(b)(6) TO ANSWER INTERROGATORIES CONCERNING THE FEDERALLY COURT ORDERED TELEPHONE SURVEILLANCE THAT HAS BEEN FLAGUEING HIS TELEPHONE LINES AND RUINING HIS BUSINESS FOR THE PAST FIVE YEARS YET INGRAM STILL SAID IT WAS A MATTER OF STATE DISCOVERY)  
THE COURT REPORTERS TRANSCRIPT WAS NOT AVAILABLE TO PLAINTIFF UNTIL MARCH 17, 1986 AND PLAINTIFF WAS UNSURE OF WHAT THE COURT ORDERED YET THE COURT DID NOT TELL PLAINTIFF TO FILE AMENDED COMPLAINT OR TO DO ANYTHING EXCEPT AWAIT WRITTEN ORDERS.





FILED DEC 9, 1985  
WILLIAM WHITTAKER  
CLERK, U.S. DIST. CT.

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALEXANDER DAMASCUS)

v. Plaintiff) No. 86-20209WAI

PATTY BORGIA, et al)

Defendants) ORDER

\_\_\_\_\_)  
The Court hereby ORDERS:

PLAINTIFF HAS REQUESTED APPOINTMENT OF

COUNCIL FOR THE HEARING SET WITH ONLY A

WEEKS NOTICE. Plaintiff's request for

appointment of council is DENIED

DATED: 12/6/85

WILLIAM INGRAM

United States District Judge



ALEXANDER DAMASCUS

FILED APRIL 8, 1985

259MERIDIAN

WILLIAM WITTIKER, CLERK

SAN JOSE, CALIF

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALEXANDER DAMASCUS

) NO. C-85-20209WA1

PLAINTIFF

) 2ND AMENDED COMPLAINT

v.

)

PATTY BORGIA, U.S.A,

)

STATE OF CALIF,

)

CALIF. DENT. ASSOC.,

)

SANTA CLARA DENTAL

)

SOCIETY, BLUE CROSS,

)

PRIVATE MEDICAL CARE, )

-----et al.

)

Plaintiff, Alexander Damascus, D.D.S., a  
licensed Dentist and citizen of the State  
of California entered into a contract with  
Defendant, Patty Borgia, henceforth known  
as Borgia and Plaintiff alleges that  
defendant, Borgia, intentionally violated  
the terms of the contract by acting as an  
investigating agent of United States of



America and other unknown defendants,  
conspiring against plaintiff, and demand for  
Jury Trial is sought.

Plaintiff alleges the following facts  
against all of the defendants.

1. Defendant California Dental Service  
RESTRAINED TRADE BY BREACHING CONTRACTS AND  
COMMITTING FRAUD ON Medi-Cal claims IT  
PROCESSED before and during Borgia's  
employment.

2. Defendant California Dental Assoc.  
monopolized the State Board of Dental  
Examiners during time of Borgia's  
employment CONDUCTED INVESTIGATIONS IN  
VIOLATION OF THE DENTAL PRACTICE ACT,  
AGAINST A NON-MEMBER.

5. Defendant Private Medical-Lane, Inc.  
AND plaintiff had a WRITTEN contract THAT  
WAS BREACHED IN VIOLATION TO IT'S TERMS  
BECAUSE DAMASCUS WAS NOT A MEMBER OF CDA,  
AND BECAUSE DAMASCUS WAS USED AS A  
SCAPEGOAT FOR DEPT. HHS INVESTIGATIONS.



7. Defendant Board of Dental Examiners of the State of California USED BURGIA AS AN INVESTIGATOR AND IS still is withholding information in plaintiff's file that is normally submitted to licensed dentists.

8. Defendant the Santa Clara County Dental Society WAS USED AS THE PLACE TO CONDUCT INVESTIGATIONS BY CDA members.

10. The Federal judicial forum has been selected by plaintiff to be the proper forum in which to prosecute his causes of action and is based in said forum because of an action against defendant United States of America in which damages are in excess of the minimal amounts required to file in said system. Other named defendants are joined herein by virtue of the conspiracy that said defendants planned in conjunction with defendant United States of America.

11. On or about December 7, 1982, plaintiff orally agreed to hire defendant in the capacity of Dental Assistant and





receptionist upon certain conditions, one of which condition was that defendant Borgia would devote her complete efforts to further the success and value of plaintiff's practice, upon the further condition that defendant Borgia was working for no one else and upon the further condition that she would remain a loyal employee of plaintiff and follow his instructions.

12. This employment contract between plaintiff and defendant Borgia continued for a four month period of time.

13. During Borgia's employment, plaintiff discovered that Borgia was not operating in the best interests of plaintiff, was intentionally refusing new patients for plaintiff, was totally disregarding the instructions of plaintiff in the operation of his business venture and in other matters, all to his detriment and damage.



For the First Cause of Action, Plaintiff contends that:

1. United States of America used Borgia unlawfully as an investigator committing fraud upon Borgia's signed agreement damaging plaintiff by intrusion, invasion of privacy, and violation of plaintiff's rights, and interference with business.

2. The State Board of Dental Examiners conspired with Federal Investigators and Borgia to gain information on plaintiff through unlawful surveillance, intrusion, invasion of privacy, and violation of Plaintiff's rights.

3. Borgia was acting as an investigator for other defendants, her actions also constitute conspiracy, intrusion, invasion of privacy, violation of anti-trust laws, misrepresentation, fraud and unlawful surveillance.

For Second cause of action, Plaintiff contends that:



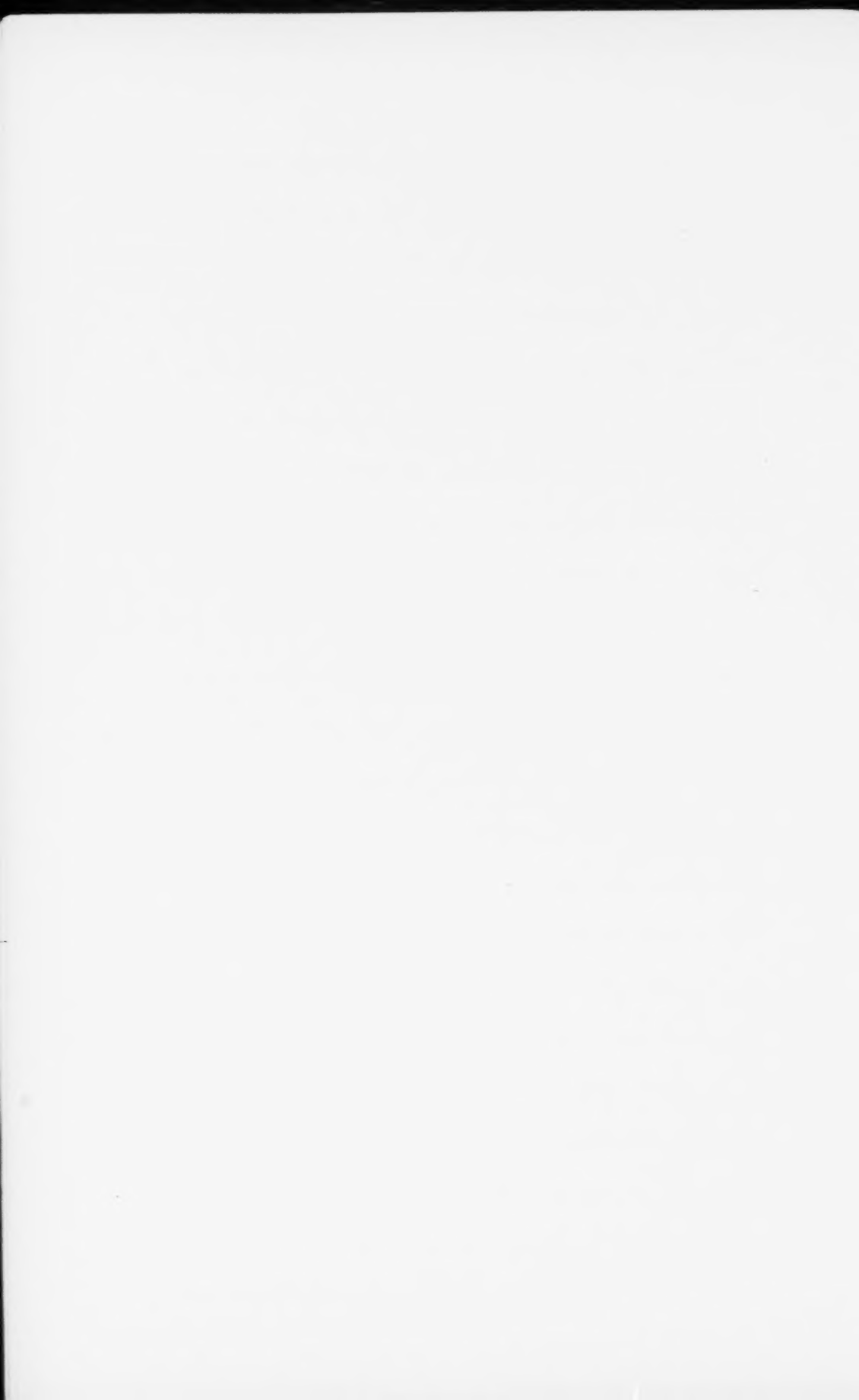
1. United States of America used unlawful telephone surveillance damaging plaintiff by intrusion, invasion of privacy and violation of plaintiff's rights. 2. United States of America damaged plaintiff by use of telephone surveillance to divert normal business calls away from his office in an attempt to force him to take in business that he would normally turn away. Plaintiff seeks separate damages for UNKNOWN NAMED AGENTS OF THE U.S. DEPT HAS CAUSING BREACHS OF CONTRACT AND FRAUD COMMITTED BY BORGIA. 28USC 1337 IS JURISDICTION FOR THE RESTRAINT OF TRADE RESULTING FROM WRONGFUL AND DISCRIMINATORY BREACH OF CONTRACTS, AND BIVINS WAS CITED IN COMPLAINT AND SUGGESTION OF AMENDMENT WITH RESPECT TO THE FEDERAL TORT CLAIMS ACT DUE TO ADMINISTRATIVE CLAIMS COPIES ALLEGED STOLEN WITHOUT WARRENT ALONG WITH OTHER PROPERTY TAKEN FROM WELLS-FARGO SAFE DEPOSIT BOX.



PRIOR TO FILING C86-20234RPA ON APRIL 7, 1986, DAMASCUS RECEIVED A DENIAL OF ADMINISTRATIVE CLAIMS FILED AGAINST THE F.B.I. , AND THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES SPECIFICALLY CITING, THE FEDERAL TORT CLAIMS ACT FOR INTENTIONAL TORTS COMMITTED BY THE SURGEON GENERAL AND AGENTS OF BOTH THE F.B.I. AND THE U.S. DEPT HHS , FOR WARRENTLESS SEARCH AND SEIZURE OF HIS PROPERTY FROM HIS OFFICE, HOME, AND THE DAMAGE DONE DURING SEARCH AND SEIZURES.

42. PLAINTIFF ALLEGES THAT THE ATTY GEN FOR THE STATE OF CALIFORNIA AND OTHER UNKNOWN LAW ENFORCEMENT AGENCIES CONSPIRED WITH AN UNKNOWN MUNICIPAL LAW ENFORCEMENT AGENCY TO COPY AND STEAL BY SUBSTITUTION FILM SENT TO BE PROCESSED AT LOCAL FILM DEVELOPING COMPANIES. THIS SEARCH AND SEIZURE WAS TO COVER UP THE IDENTITIES OF AGENTS PLAINTIFF PHOTOGRAPHED.

43. Plaintiff alleges that the California Depart of Health Services and unknown named agents of the U.S. Depart of H.H.S. SENT -





Patient Russel Seja to Plaintiff's office to seek false Damages from a false dental malpractice complaint and frame Damascus for the numb lip he came into the office with. Patient Nancy Masse, an agent for the department of H.H.S. was encouraged to return to Damascus' office by Blue Cross for the purposes of staging false investigations. 44. Plaintiff alleges that unknown named agents in cooperation with the U.S. Dept. of Health and Human Services, the F.B.I. and the Ca. Dept. Health Services conspired to intercept outgoing calls from Plaintiff's houses and office to prevent Plaintiff from getting an attorney to represent Plaintiff in his complaints. plaintiff alleges that at times when he called and talked to people that claimed to be attorney's that instead he was talking to unknown agents of unknown law enforcement agencies interfering with due process of law and preventing Plaintiff from getting an attorney.



FILED FEB 24, 1985

WILLIAM WITTIKER, CLERK

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALEXANDER DAMASCUS ) NO. C-85-20209WAL

v. PLAINTIFF ) ORDER

PATTY BURGIA, U.S.A. )

\_\_\_\_ Defendants \_\_\_\_\_)

Plaintiff has requested a writ of mandamus compelling Pacific Bell to answer interrogatories. for the reasons set forth below, Plaintiff's request is denied.

DATED: 2/23/86 INGRAM

(PLAINTIFF STATED THAT THE STATE COURT LACKED COMPETITENT JURISDICTION PURSUANT TO 18 USC 2518(8)(b) TO ANSWER INTERROGATORIES CONCERNING THE FEDERALLY COURT ORDERED TELEPHONE SURVEILLANCE THAT HAS BEEN PLAGUEING HIS TELEPHONE LINES AND RUINING HIS BUSINESS FOR THE PAST FIVE YEARS YET INGRAM STILL SAID IT WAS A MATTER OF STATE DISCOVERY)

APPENDIX 8



FILED APRIL 17, 1986

WILLIAM WITTAKER, CLERK

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALEXANDER DAMASCUS ) NO. C-85-20203WAI

PLAINTIFF ) CONSOLIDATED WITH

V. ) NO. C-86-20223WAI

PATTY BORGIA, U.S.A. ) NO. C-86-20234RPA

\_\_\_\_ Defendants \_\_\_\_\_ ) ORDER

THE COURT HEREBY ORDERS SUCH SPONTANEOUSLY

1. Case Nos. above are consolidated.

F.R.Civ.Pro. 42(a). Plaintiff filed three actions with different defendants, different jurisdiction (yet what the court deems to be) similar allegations; numerous questions of law and fact are common between these allegations and therefore (without any motions from any defendants nor leave to amend as a matter of course) consolidation is proper.

2. Case No. C86-20234 is DISMISSED (EVEN THOUGH DEFENDANTS AND JURISDICTION DIFFER)



ALEXANDER DAMASCUS

FILED APRIL 28, 1986

259MERIDIAN

WILLIAM WITTAKER, CLERK

SAN JOSE, CALIF

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALEXANDER DAMASCUS

) NO. C-85-20209WAI

PLAINTIFF

) CONSOLIDATED WITH

v.

) No. C-86-20229WAI

PATTY BORGIA, U.S.A.

) No. C-86-20234RPA

\_\_\_\_ Defendants \_\_\_\_\_

) NOTICE OF APPEAL

PLAINTIFF, Alexander Damascus, hereby serves Notice of Appeal from the judgement of entered April 17, 1986 and appeals this dismissal to the ninth circuit court of appeals.

Dated: April 26, 1986

-----  
Plaintiff in pro per

APP PAGE 10





ON APRIL 7, 1983 RIGHT AFTER DAMASCUS CAUGHT PATTY BORGIA TURNING AWAY A CASH CUSTOMER, DR. DAMASCUS ASKED BORGIA TO WRITE OUT THE FOLLOWING IN HER OWN WRITING AND SIGN IT. SHE CHANGED PART OF WHAT DAMASCUS ASKED HER TO WRIT OMITTING THE PART WHERE DR. DAMASCUS ASKED HER TO SIGN THAT SHE WAS NOT WORKING FOR THE DEPARTMENT OF HEALTH SERVICES, WRITING INSTEAD THAT SHE DID WORK FOR THE BUTE COUNTY DEPT OF WELFARE. THEN DR. DAMASCUS ASKED HER TO AGAIN WRITE THAT SHE WASN'T CURRENTLY WORKING FOR ANY DEPART OF HEALTH SERVICES. SHE HESITATED AND WROTE THE LAST PART THAT SHE SIGNED. DR. DAMASCUS HAD AN ORAL AGREEMENT PRIOR TO THAT THAT SHE WAS NOT WORKING FOR ANYONE OR ACTING AS AN AGENT FOR ANYONE.

HER SIGNED CONTRACT, IN HER OWN WRITING WAS AS FOLLOWS;



I, PATTY BORGIA do not work for any organization other than Dr. Damascus D.D.S. I have not worked for or reported to any of the following organizations. "CDS, PMI, DEPARTMENT OF CONSUMER AFFAIRS, ANY DENTAL SOCIETY, OR ANY LAW ENFORCEMENT AGENCY. IN 1979 I DID WORK FOR THE BUTE COUNTY DEPARTMENT OF WELFARE AS A HOMECARE NURSE. I AM NOT DOING ANY KIND OF INVESTIGATIVE WORK PUBLIC OR PRIVATE. I HAVE NEVER TAKEN ANY LEGER OR FILE INFORMATION OR ANYTHING FOR THAT MATTER FROM DR. DAMASCUS OFFICE.

PATRICIA BORGIA (signed)

I DO NOT CURRENTLY work for any Department of Welfare, or any Department of Welfare and Social Services.

4-7-83 Patricia Borgia(signed)



FILED JULY 21, 1987  
CATHY CATTERSON, CLERK  
U.S. COURT OF APPEALS

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

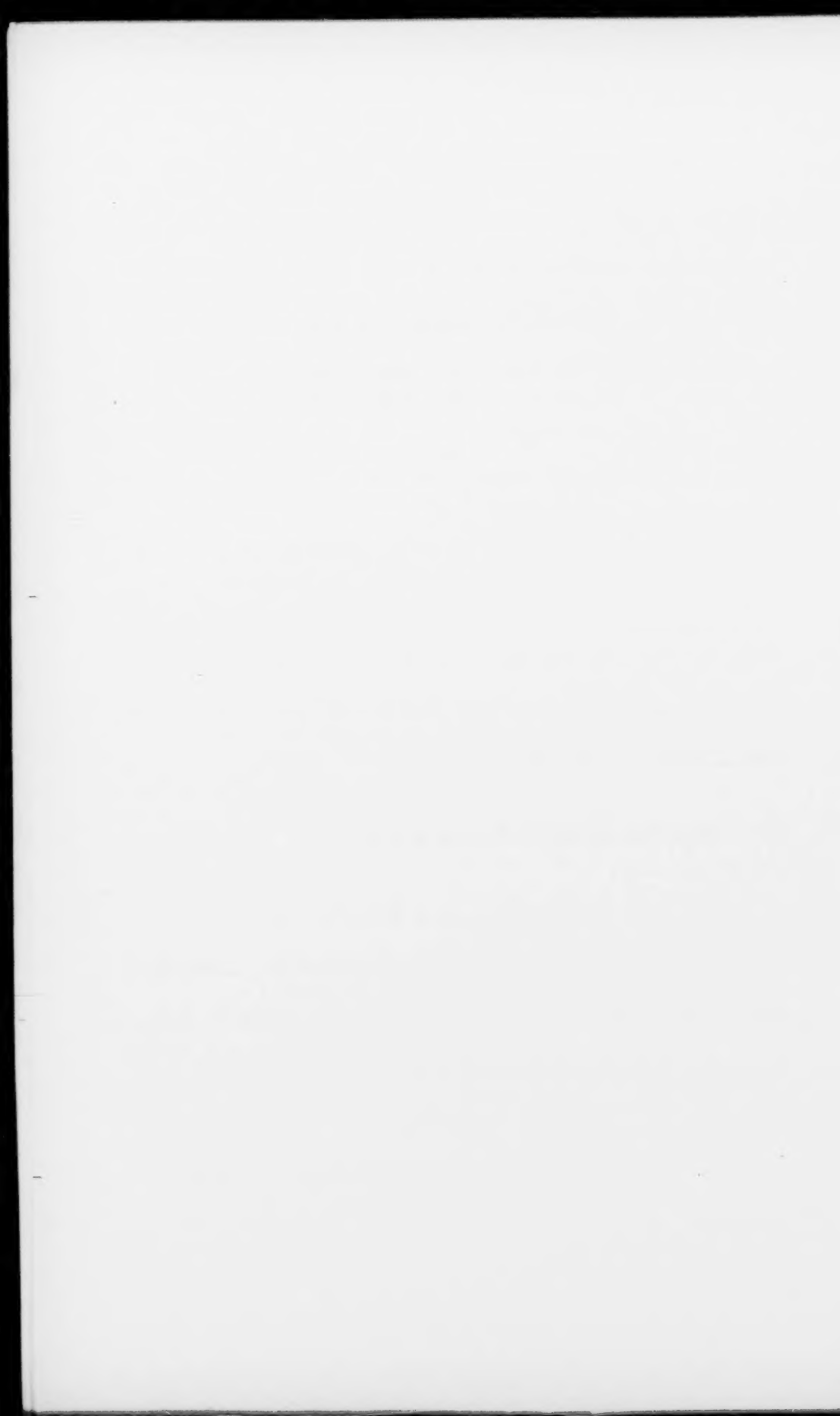
ALEXANDER DAMASCUS, No. 86-2114  
Plaintiff, No. 86-2231  
v.  
PATY BORGIA, et al, D.C. 85-20209WA1  
Defendants, ORDER

Appeal from the United States District  
Court for the Northern District of  
California William Ingram, District Judge,  
presiding. Argued and Submitted July 17, 1987  
San Francisco, California.

Before: KOELSCH, SNEED, and TANG, Circuit Judges

After reviewing the briefs and the  
record of this case, we affirm the district  
court's dismissal of appellants' causes of  
action for failure to state a claim for  
relief. We find no abuse of discretion with  
respect to any aspect of the proceedings  
below.

AFFIRMED



FILED JANUARY 8, 1987

CATHY CATERSON, CLERK

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALEXANDER DAMASCUS, ) no. 86-2114

Plaintiff-Appellant) & NO. 86-2231

vs. ) DC#CV-85-20209WAI

FATTY BORGLIA, et al., ) 86-20234 & 86-20229

Defendants-Appellees) Northern California

ORDER

BEFORE: KOELSCH, SNEED, and TANG Circuit Judges

The panel as constituted in the above case has voted to deny the petition for rehearing and to reject the suggestion for rehearing en banc.

The full court has been advised of the suggestion for en banc rehearing, and no judge of the court has requested a vote on the suggestion for rehearing en banc.  
Fed.R. App. P. 35(b).

The petition for rehearing is denied, and the suggestion for a rehearing en banc is rejected.

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of Santa Clara County. I am over eighteen years of age and not a party to the within action:

My residence address is 3076 CARLETON PL SANTA CLARA, CALIF.

ALEXANDER DAMASCUS D.D.S) NO.

APPELLANT/PETITIONER )

VS

) PETITION FOR WRIT OF CERTIORARI

PATTY BORGIA et al )

RESPONDANT)

said action by placing a true copy thereof enclosed in a sealed envelope, addressed as follows:

J. P. RUSSONIELLO, U.S. ATTY.

BOSTWICK & ROWE, INC.

SAMUEL WONG, ASST. U.S. ATTY.

100 N. ALMADEN AVE.

JUDITH WHETSTONE, ASST. U.S. ATTY.

280 SOUTH 1ST. STREET

SAN JOSE, CA. 95110

SAN JOSE, CA.

PATTY BORGIA

14289 MANATEE CIRCLE

MAGALIA, CA. 95954

JOHN K. VAN DE KAMP,

ATTY. GEN., STATE OF

CALIF. (OFFICE OF.)

350 MCALLISTER ST. RM. 6000

SOLICITOR GENERAL

SAN FRANCISCO, CA. 94102

ATTORNEY GENERAL

CLERK, U.S. COURT OF APPEALS

MAIN JUSTICE-BLDG. 4TH FLOOR

P.O. BOX 547

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WASHINGTON, D.C. 20530

CLERK, U.S. DIST COURT

UNITED STATES SUPREME COURT

DON BALLAH

ONE FIRST ST. N.E.

280 SOUTH 1ST. STREET

WASHINGTON D.C. 20547

SAN JOSE, CA. 95110

I CERTIFY UNDER PENALTY OF PERJURY THAT THE ABOVE IS TRUE AND CORRECT. EXECUTED in March then remailed with corrections by order of court April 25, 1988 AT SAN JOSE, CALIFORNIA.